

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
188	2459		The 1937 Narcotics Law of Manchukuo		20301
1031	2460		Special Budget of the State Council of Manchukuo for 1943	20305	
1031	2460-A		Excerpt therefrom		20305
1032	2461		General Budget of the State Council of Manchukuo for 1943	20306	
1032	2461-A		Excerpt therefrom		20306
963	2462		Affidavit of NAMBA, Tsunekazu		20308

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2 MAY 1947

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EXHIBITS

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401(21)	2525		"Panay" Incident		21360
1291	2526		Affidavit of AOKI, Takeshi		21363
1039	2527		The Official Note of the Japanese Government which the Foreign Minister HIROTA, Koki sent to Sir Robert Craigie 14 December 1937		21367
1013	2528		Certificate on "Ladybird" Incident		21371
1276	2529		Affidavit of TOTSUKA, Michitaro		21373

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EXHIBITS

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1538	2620		Certificate as to Telegrams dispatched by the Kwantung Army, Korean Army and Fifth Area Army concerning the entry of the USSR into War with Japan were burnt at the time of the termination of the War		22574
1478	2621		Affidavit of HASHIMOTO, Gun		22576
974	2622		Affidavit of HASHIMOTO, Gun		22579
		766-A	Map showing frontier line of the Khalkhin- Gol River		22636
		767-A	Ditto		22637
		767-B	Ditto		22637

1 prejudice of Japanese subjects and Japanese property
2 was, we thought, a relevant consideration, but we never
3 for one moment considered that we had the jurisdiction
4 and a duty to inquire as to the effect of the communistic
5 doctrine in the world and what steps might be taken to
6 combat it.

7
8 It might have been a relevant consideration
9 with us that Japan, which now through her defense
10 counsel -- or who the accused through their defense
11 counsel now say acted to combat communism, never attack
12 communistic Russian but opened her attack on conservative
13 Britain and then on capitalistic America, but whatever
14 may have been the consideration that influenced us
15 we will not exclude a single relevant and material
16 fact that the defense can prove has bearing upon the
17 issues. But we did in the recent decision to which
18 I have referred intimate that there was a limit to
19 the extent to which we would entertain communistic
20 activities, and we did not distinguish them from
21 other activities, prejudicing Japanese nationals and
22 Japanese property.

23 However, I think the majority of the Tribunal
24 would prefer to hear the opening read without inter-
25 ruption unless interruption becomes necessary.

MR. LAZARUS: Yes, sir.

NOTE:

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1 I contend that by reading this excerpt the
2 document, No. 2373, was used to full extent. Now
3 the defense proposes to use other parts of this
4 excerpt trying to prove by it other matters which were
5 not kept in view by the Court when they accepted the
6 excerpt. These other parts of the excerpt contained
7 opinions of Mr. Powell which can have no probative
8 value at all for it speaks about events which Mr.
9 Powell didn't witness and about which he speaks in
10 words of third persons from entirely unknown sources.
11 Besides, this description of the events is of a
12 very uncertain or, simply, even slanderous nature.
13 The proving of contents of events of such kind by
14 excerpts from the book written by a newspaperman who
15 endeavored to make his book a thriller for the readers
16 is absolutely inadmissible. It would be contrary to
17 the attitude toward this book stated by the Tribunal.
18 Therefore, I ask to reject the whole part of this
19 excerpt not read before.
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1 it was always decided in chambers, and although the
2 excerpts from the book were taken into consideration
3 there always was an element of criticism in the
4 approach to them. Such was the case when, on
5 October 16th, I personally made reference to this
6 book, transcript pages 7892 - 7897. On these two
7 grounds I submit the document should be rejected.

8 THE PRESIDENT: Mr. Cunningham.

9 MR. CUNNINGHAM: I merely wish to state,
10 your Honor, that history records this event in many
11 different ways and all about the same purport and
12 I suggest we shouldn't have to prove the manner in
13 which the world accepted the Anti-Comintern Pact if
14 the Court can take judicial notice of its popular
15 acceptance.

16 THE PRESIDENT: We notice that part of the
17 defense document 1315 is in quotation marks. Whose
18 observations are they; are they the preamble to the
19 pact? Apparently not.

20 MR. CUNNINGHAM: It is from the United States
21 State Department Volume, "Events Leading Up to World
22 War Two", and I copied it out of it, the way it is
23 reported there.

24 THE PRESIDENT: All the sound and all the
25 crazy statements in the world could appear in the

HASHIMOTO

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1 Q Had you conducted any verification of this
2 information, yourself?

3 A No, I did not. I do not believe there was
4 any necessity for my having done so.

5 Q Thus in the case of the battles in the
6 Lake Hassan area you gave the conclusion that the
7 Soviet troops had violated the border even with-
8 out conducting any verification of this information?

9 A I believe reports which we received from
10 the army.

11 Q Do you know that the border line after the
12 Hassan Lake Incident remained precisely the same as
13 the Soviet side insisted?

14 A There was a difference in the border line
15 as the Soviet Union conceived it, and the border line
16 which the Manchurian government had insisted on
17 until then. But I can testify that it is true
18 that the Soviet troops went even further into our
19 territory than even the border line which the Sovi-
20 ets insisted on. This was borne out by reports from
21 the army which I received when I went to that area.

22 THE MONITOR: "Our territory" should be
23 "into the Manchurian territory."

24 Q And so you know that the Chengkufeng
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1 Q May I ask you, first, to show by a pencil
2 mark the area of the Nomongan area fighting; the
3 area of the fighting?

4 THE PRESIDENT: He had better use a letter
5 or a number.

6 Q Secondly, maybe you will pay attention as
7 to where the frontier line is marked on this map, and
8 that it is marked along the Khalhin-Gol River.

9 RUSSIAN MONITOR: Whether it is marked along
10 the river.

11 A As I have been saying repeatedly, from this
12 point -- in this area, I thought of the river as the
13 border.

14 Q This is not the language a military man should
15 speak. I ask you to indicate precisely where the
16 frontier line passes, along the River Khalhin-Gol or
17 to the east of this river?

18 A I have drawn a red line on this map.

19 Q Maybe you will answer me in words. Maybe
20 you will tell me in words whether the frontier line
21 passes along the Khalhin-Gol River or to the east of
22 that river?

23 A It passes along the line of the Halkhin
24 River. The Halkhin River is the border.

25 THE PRESIDENT: Your Honor, in view of this

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1 THE PRESIDENT: There is on my part too. As
2 far as I can judge he is consistent but I may be wrong
3 again. I expected that answer. He said the river was
4 the boundary. He marked the river as the boundary and
5 he said the fighting was on the left-hand side or on
6 the far side which would be the left-hand side coming
7 down from the source. That is only my impression.
8 Other members may take a different view but I formed
9 that impression. We are all handicapped without maps,
10 of course.

11 COLONEL SMIRNOV: Your Honor, I can hand
12 those maps although I have them in insufficient number
13 of copies.

14 It seems to me, your Honor, that the witness
15 is either grossly mistaken or purposely distorts the
16 real situation. The right-hand side of the map is
17 Manchuria. The left-hand side of the map is Mongolia.
18 As the witness said, the area of the fighting was be-
19 tween the border line and the river. This is Mongolian
20 territory.

21 MR. FURNESS: Your Honor, I must object to
22 the prosecutor's testifying and to his attacking the
23 witness.

24 THE PRESIDENT: He is not doing either. He
25 is arguing with me actually because I come to the

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1 Q Do you know Major General KOBAYASHI?

2 A Yes, I know him.

3 Q And Lieutenant General YASUOKA?

4 A Yes.

5 Q Tell me about the events of July 2, 3 and
6 4.

7 A Although I do not remember the details, I
8 recall that at the time -- that was the time when
9 the YASUOKA Unit, the main force of the Japanese,
10 repulsed the -- began to repulse the Soviet troops
11 from the east side of the Harka River to a point near
12 the Harka River.

13 Q For what purpose did the Japanese troops
14 cross on to the western bank of the Khalhin-Gol River,
15 if even, according to the Japanese version the western
16 bank of the Khalhin-Gol River was on the Mongolian
17 side?

18 A While in the course of repulsing Soviet
19 troops who had crossed to the east side of the Harka
20 River, the Japanese did cross the Harka River for a
21 time in that offensive on one occasion. That was only
22 one small detail of the whole fighting going on at
23 the time.

24 Q So, you want me to understand that the
25 Japanese troops accidentally jumped over the river 150 meter

1 made not directly from Chinese into English, but from
2 Chinese into Japanese, then from Japanese into English.
3 That makes this translation inadequate.

4 When we introduced this document the Tribunal
5 was satisfied with having an excerpt from the document
6 and didn't say otherwise. That is why we didn't pro-
7 cess the whole of the document, that is exhibit 753.

8 But besides this the Tribunal have the full
9 text, Exhibit 2175, full copy of the Russian text,
10 because the treaty was concluded in Russian.

11 If there is such a need we will make a full
12 translation into English and into Japanese. But there
13 is no need to accept a new evidence from the defense
14 because there is no such new evidence.

15 THE PRESIDENT: Well, I can only repeat that
16 if we have part of it in English, we should have the
17 balance, if the defense want it in and it is relevant
18 and material.

19 If there is any dispute later as to the accuracy
20 of the English translation, that can be settled in the
21 usual way by language experts.

22 Major Furness, we are unable to find in the
23 defense document 1510 the part that corresponds to that
24 read from exhibit 753. If we admit it, it will be
25 because it is the balance of 753 that was read. You

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1 THE PRESIDENT: Point out the corresponding
2 words in exhibit 753, please.

3 MR. FURNESS: The corresponding words --
4 shall I read the text from 1510 while the Tribunal
5 follows the excerpt in the third paragraph of ex-
6 hibit 753?

7 THE PRESIDENT: General Vasiliev.

8 GENERAL VASILIEV: May I say a few words?
9 If the defense wishes to confront our text with
10 their own translation let them introduce the Chinese
11 text, because there was no Japanese text of this
12 document, no Japanese original text of this document.

13 We introduced the photostate copy of the
14 document containing all signatures and seals as they
15 were done in 1886 -- as they were fixed in 1886 --
16 and we are ready to take upon ourselves obligation
17 to translate this text into English and Japanese and
18 distribute the translation. The defense will then
19 be able to judge the correctness of the translation
20 in comparison with the original. The differences
21 between our translation into English and their trans-
22 lation into English are due to the fact that we
23 translated this document directly from Russian into
24 English and they translated it via the Japanese
25 language, and that is why there are bound to be some

1 Q You arrived at Changkufeng Hill at the
2 moment when the events had already started to a
3 certain extent and developed?

4 A Yes.

5 Q Thus your making or putting the circles
6 on the map just confirmed the definite study --
7 definite positions of the battling parties, didn't
8 it?

9 A I have only indicated on the map the
10 results of my observations.

11 Q And you, as a military man, understand
12 certainly that during the course of the fighting some
13 definite line could have been violated by any of these
14 parties? Even if this line was violated by the
15 Soviet troops that could have been explained by this
16 fact -- could have been explained in this way?

17 A Yes, after hostilities or fighting begins.
18 I merely said that there were Soviet troops on the
19 summit and I had seen trenches before the outbreak
20 of the fighting.

21 Q Were you, as a commanding officer of an
22 artillery regiment, together with your unit and due
23 to the nature of the unit, which was an artillery
24 unit, were you directly in the first line of Japanese
25 troops or at some distance from there?

1 Khasan area, and you said that you saw this map for
2 the first time here in this courtroom, is that
3 correct?

4 A Yes.

5 Q Then, the contention in your affidavit,
6 I quote: both hills were in Manchukuoan territory,
7 even according to the Hunchun Border Agreement,
8 is a misunderstanding because when you were draft-
9 ing your affidavit, you didn't see the map, and the
10 map shows otherwise, is not that so?

11 A No, this map was drawn up by the Soviet
12 side at the time of the Khun Chun Treaty. This is
13 the first time that I saw the map.

14 Q Which other more recent agreements are
15 there, do you know, which would describe the bound-
16 ary in this sector otherwise?

17 A All I know is that concerning the Khun
18 Chun Treaty, as I understand, is that after the
19 warfare at Changkufeng, it was agreed between both
20 sides, the Japanese side and the Soviet side, that
21 a status quo would be maintained.

22 Q Where did the boundary pass after the
23 Changkufeng Incident, along the bank or along
24 the crest of the hills?
25

A If my memory serves me correctly, the

1 Q According to whose order did the Japanese
2 forces start hostilities?

3 THE PRESIDENT: Major Furness.

4 THE MONITOR: The witness replied, under
5 the orders of the division commander.

6 Q What is the name of the division commander?

7 A The same person as I mentioned previously,
8 Lieutenant General SUETAKA, Kamezo.

9 Q Did you know that the commander of the
10 Korean Army, NAKAMURA, was displeased with SUETAKA
11 having started military operations?

12 A Yes, I do.

13 Q And, what do you know about it, tell me.

14 A After the fighting, I was shown the tele-
15 gram which was received at the divisional head-
16 quarters on the first of August -- after the fight-
17 ing, I was shown the telegram at divisional head-
18 quarters which was received on the first of August
19 from the commander of the army, NAKAMURA.

20 Q Did you give any advice to NAKAMURA con-
21 cerning military operations and what attitude did
22 he take toward your advice?

23 A The first time I expressed -- I gave my
24 advice to the commander of the division -- it was
25 about noon on the 13th of August, I told him that

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1 I shall also renew the tender of defense
2 document 1378, the excerpt from the Soviet Union
3 Year Book.

4 THE PRESIDENT: General Vasiliev.

5 GENERAL VASILIEV: If the Tribunal please,
6 I object to the introduction of this document. This
7 year book is a Japanese year book published by some
8 private publishing office -- Japanese publishing
9 office. The data concerning the USSR and the armaments
10 of the Soviet Army are given in these excerpts, the
11 source of this data not being indicated. In some
12 cases it is stated that the data are taken allegedly
13 from the Soviet press, but one cannot even see in
14 what publication it was published and therefore it
15 is impossible to check and to establish what was
16 published and what is an idle invention of the author
17 of this article.

18 In some passages of this article its author
19 attempts to elucidate, with some purpose in view,
20 some aspects of the USSR's internal affairs which
21 are absolutely irrelevant to the issues involved in
22 this case. The article on the whole is more like an
23 essay written in light manner and designed at
24 producing cheap sensation and pursuit of the purpose
25 of propaganda than it is a serious study of the question.

1 The article in general being of this type,
2 the conclusions contained therein, and being of the
3 same kind as the contention that the Red Army
4 put an end to its defensive policy and assume an
5 offensive attitude, etc, sounds absolutely unconvincing.
6 The speculations to the effect that after 1922
7 the policy of the USSR had been concentrated on
8 Europe and later was transferred to the Far East,
9 etc, are of the same kind. These are unfounded
10 allegations which have no probative value and therefore
11 I ask for the rejection of the document.

12 THE PRESIDENT: Major Blakeney.

13 MR. BLAKENEY: Early in this Trial, over
14 objection of the defense, the Tribunal admitted
15 in evidence the so-called Japan Year Book which stands
16 in precisely the case of this so-called Soviet Union
17 Year Book.

18 THE PRESIDENT: The certificate is signed
19 by a Japanese; is it not? He says that he wrote
20 the book and had it printed and published. I will
21 read the certificate: "I hereby certify that the
22 book hereto attached, written in Japanese by Nisso
23 Tsushin Sha, consisting of 1062 pages, entitled the
24 'Soviet Union Year-Book' and issued on the 25th of
25 October, 1943, is a book which I wrote and which I

1 of the second part of the document. I quote, page 4
2 of the English text, paragraph 4. Follow my reading.

3 "The objects of this consolidation are twofold:

4 "1. Consolidation so that whenever war
5 strikes, everything is ready.

6 "2. Consolidation so that even if there are
7 a few difficulties to begin with, everything is per-
8 fect after ten years.

9 "It is a very important problem which
10 principle we depend on. If the authorities decide
11 on a policy of beginning the war against Russia as
12 soon as possible according to the first-mentioned
13 principle we, of course, will depend on the former.
14 In the event, however, of our being unable to con-
15 jecture the time of the war, it would be better to
16 choose rather the latter. This is why Russia will
17 not be able to carry out military operations on a
18 large scale against foreign countries according to
19 the first-mentioned principle, even if the war with
20 Russia breaks out now or the near future. It is
21 of course necessary to undertake at once everything
22 that will involve expenditure, such as holding
23 manoeuvres, urgent and indispensable items such as gas,
24 the training of troops."

25 Such proposals were made by you to the

1 Q It was at the beginning of 1932, wasn't it?

2 A I was transferred to my new duties in April
3 of 1932.

4 Q Tell us, Mr. Witness, did not the Japanese
5 General Staff in 1932 take a decision to complete
6 preparations for a war against the USSR by the
7 beginning of 1934?

8 A The General Staff did not make such a
9 decision -- does not make such a decision.

10 Q I shall read to you an excerpt from your
11 message which you, being head of the Russian Section
12 of the Second Division of the General Staff, handed
13 to KAWABE, Military Attache in Moscow in summer of
14 1932. I quote exhibit 702, page 1, paragraph 1:

15 "It was decided that the (army and navy's)
16 preparations for waging war against Russia should
17 be completed before the middle of 1934. However,
18 it does not mean that hostilities will be opened
19 immediately after the preparations have been com-
20 pleted. In order to consolidate Manchuria, the war
21 against Russia is necessary for Japan."

22 Did you tell it?

23 A At that time I informed Lieutenant Colonel
24 KANDA something similar to what was just read, but
25 not exactly the same. As I have stated in my affidavit,

1 evidence during those interrogations but unfortunately
2 we cannot use them now because they are not ready for
3 being used in the courtroom now.

4 THE PRESIDENT: Put to him the evidence
5 TANAKA gave here but do not go beyond that to inter-
6 rogations that preceded the evidence. I am thinking
7 of the other TANAKA.

8 MR. BLAKENEY: Mr. President, he is
9 referring to the witness now on the stand and we
10 would like to call upon the prosecution, if they
11 have the intention of confronting the witness -- of
12 producing interrogations of this witness -- to confront
13 him with them now rather than at some other time.

14 COLONEL IVANOV: I have already explained
15 to the Honorable Tribunal that we cannot produce
16 these documents now because they are not processed.
17 The prosecution has the right to produce them in
18 rebuttal.

19 MR. BLAKENEY: Under the rules prevailing
20 in this Tribunal they have the duty to confront the
21 witness with any matter which they propose to use
22 as impeachment of his testimony. Processed or not,
23 the evidence could be put to the witness now.

24 COLONEL IVANOV: I don't know any such
25 rules in the practice of the Tribunal and I think such

1 they decide to adhere whether they will agree upon
2 what they are. They may differ in different coun-
3 tries, and they do.

4 COLONEL IVANOV: Your Honor, I will take
5 into consideration all that you have said, but now
6 the question is only of one interrogation. The present
7 examination is concerned only with one document.

8 Q Mr. Witness, can you tell me what units
9 were transferred from the Kwantung Army late in
10 autumn, 1941, to the Southern Regions?

11 A I have deposed with respect to the units
12 which were sent between September and November,
13 1941, that is transferred. The troops transferred
14 included the following:

15 One division, three tank regiments, three
16 heavy artillery regiments -- that is, five artillery
17 regiments -- 24 anti-aircraft companies, three
18 headquarters of the air corps, four fighter squadrons,
19 three light bomber squadrons, two heavy bomber
20 squadrons, five companies of reconnaissance, and also,
21 in addition, ground crews, that is ground airforce.
22 These were the principal troops which were trans-
23 ferred, but there were also others.

24 Q What sort of airforce units of
25 the Soviet Army were in the

1 subordinates on these very matters and confirmed
2 my memory; that is, my former subordinates.

3 Q I am not interested in that now. Mr. Witness,
4 will you tell me, you, being Chief of the First
5 Division of the Japanese General Staff, were re-
6 sponsible for drafting of operational plans of a
7 war against the Soviet Union and the United States,
8 Great Britain, and China in the period from 1940-
9 1942, were not you? Answer briefly "yes" or "no."

10 A No, the responsibility rests with the
11 Chief of the Army General Staff.

12 Q Had you admitted the operational plans
13 which were drawn up by the General Staff of Japan in
14 1941-42 under your supervision, plans directed
15 against the U.S.S.R., United States, Great
16 Britain, and China, were aggressive, had you
17 admitted that then, you would have been responsible
18 for these plans as a war criminal, wouldn't you?

19 THE PRESIDENT: That is argumentative.

20 COLONEL IVANOV: That is all, your Honor.

21 THE PRESIDENT: We will adjourn until half-
22 past one.

23 (Whereupon, at 1200, a recess was
24 taken.)
25

1 Q I will remind you. I will read an excerpt
2 from exhibit 736 bearing upon the materials of the
3 conference of the chiefs of the Japanese Special
4 Service organizations in February, 1940. I quote
5 page 1:

6 "Revision of the Anti-Soviet Sabotage
7 activities and of guidance of White Russians in keep-
8 ing with the revisions.

9 "Army Special Service Organization at Harbin.

10 "A Reform of the Anti-Soviet sabotage activ-
11 ities. The idea we have hitherto had regarding the
12 anti-Soviet sabotage activities was to use the individual
13 sabotage units under the direct leadership of the
14 Japanese military authorities. However, to make this
15 more effective in future, it is advantageous to establish
16 a Far East Anti-Comintern Self-government simultaneously
17 with the commencement of hostilities, to unite various
18 kinds of sabotage activities by this, and to add
19 political meanings to this."

20 Was not a special personnel prepared for the
21 purpose of administering -- trained for the purposes of
22 administration of Soviet territory which it was planned
23 to seize with the help of the Japanese troops and
24 was not this personnel trained under the supervision
25 of UMEZU and the chief of the Harbin military mission

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in 1940 and later -- Harbin Special Service Organization?

1 A Such personnel was not being trained.

2 Q Will you tell whether the chief of Harbin
3 Special Service Organization was directly subordinated
4 to UMEZU as commander of the Kwantung Army?

5 A He was directly under the command of the
6 commanding general.

7 Q Did you, as chief of staff of the Kwantung
8 Army at that period, supervise the activities of
9 special service organizations?
10

11 A I have not engaged in their guidance.

12 Q Did you have any knowledge of the activities
13 of these special service organizations, or you forgot
14 about them?

15 A The fact that there was a conference of chiefs
16 of special service organs in 1940 does not remain in
17 my memory. I have forgotten it entirely. I do not
18 remember anything about it. February 1940.

19 Q Mr. Witness, do not you know that as early as
20 in the beginning of 1938 TOJO and UMEZU were concerned
21 with construction of fortifications directed against
22 the Soviet Union?

23 A I do not know of them, but General UMEZU's
24 arrival was in September, 1939.

25 Q Yes, but in 1938 UMEZU was Vice War Minister

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1 Q This is also a much longer route than through
2 the Langer Straits to the Pacific Ocean, isn't it?

3 A I think the question was in error. May I
4 have it repeated?

5 (Whereupon, the question was read
6 back by the Japanese court reporter.)

7 A Yes, it will be a longer route than the
8 Straits of Tsugaru.

9 Q And if we take into consideration that the
10 Laperouza Straits were covered with ice for two, three
11 months, then it becomes quite clear what difficulties
12 were created by the Japanese Government for Soviet
13 navigation, isn't that so?

14 A I should think it would be inconvenient.

15 GENERAL VASILIEV: I offer in evidence the
16 map marked by the witness. This map was published in
17 1940 by the Soviet Navy.

18 THE PRESIDENT: Major Blakeney.

19 MR. BLAKENEY: I, of course, object to its
20 reception in evidence except for the information
21 contained in the markings of the witness. He hasn't
22 identified the map as such.

23 THE PRESIDENT: It is admitted to that extent,
24 and on the usual terms.

25 CLERK OF THE COURT: The map published in 1940

1 does not refer to specific written or oral instruc-
2 tions on these occasions, is that right?

3 A That is so.

4 MR. BLAKENEY: Now, lastly, before the wit-
5 ness leaves the stand, I wish to offer in evidence a
6 certificate from the Director of the Administration
7 Division of the 2nd Demobilization Bureau accounting
8 for the non-production of certain documents referred
9 to in cross-examination yesterday, the documents in
10 question having been inquired about by the Soviet
11 prosecutor on page 23,527 of the record.

12 THE PRESIDENT: General Vasiliev.

13 GENERAL VASILIEV: I would like the Tri-
14 bunal to admit this certificate as accounting for
15 the absence of documents, but it does not show whether
16 the documents were burned or destroyed.

17 MR. BLAKENEY: Counsel's translation of the
18 document must be wrong. The document is, as sometimes
19 happens with these certificates, rather inartistically
20 drawn and goes beyond what I consider its proper func-
21 tion of certifying the absence of the document and
22 does state that the documents were burned.

23 THE PRESIDENT: Well, what is happening?

24 MR. BLAKENEY: Well, I have made the tender,
25 and objection was made.

RE CROSS-EXAMINATION

1 BY GENERAL VASILIEV:

2 Q Mr. Witness, before the ships pass through
3 any of the Kurile Straits, they must pass through the
4 Laperouza Straits, isn't that so?

5 A Yes, that is so.

6 Q This is the strait that was opened for
7 Soviet ships during the daytime except in winter
8 when it was covered with ice, isn't that so?

9 RUSSIAN MONITOR: Correction. During the day-
10 time only.

11 A We have not prevented the passage of Soviet
12 ships even at night whenever there were Soviet re-
13 quests. There was a period of two or three months
14 in the winter when passage was impossible.

15 Q You marked blue line through the Kurile
16 Straits and, not being a navigation expert, simply
17 because there is a space between the coasts, and
18 you marked that line without taking into consider-
19 ation without the passage of ocean ships was possible
20 there or not.

21 RUSSIAN MONITOR: Whether the passage was
22 possible.

23 A Of course, there is some difference in the --
24 generally speaking, there is some difference in the
25

1 MR. BLAKENEY: Of course, if they wish to
2 announce a noole pros, that is another matter.

3 THE PRESIDENT: After all they are always
4 at liberty to abandon any part of their case if they
5 wish to do so, if they have made a case. I do not
6 know that they have but we would like to know their
7 attitude before you go further.

8 (Whereupon, General Vasiliev
9 approached the lectern.)

10 THE PRESIDENT: We do not desire to hear
11 two counsel on the same side on the same point. We
12 desire to hear the acting Chief Prosecutor or Chief
13 of Counsel.

14 GENERAL VASILIEV: I follow your ruling,
15 your Honor, but in my submission the position of the
16 Soviet prosecution may be explained by us better than
17 by anybody else. Only for the purpose of clarifying
18 the position I would like to say a few words and, of
19 course, Mr. Tavenner is perfectly entitled to speak
20 after me.

21 THE PRESIDENT: Now we want to hear what
22 Mr. Tavenner says as to his meaning. We have quoted
23 Mr. Tavenner. Let Mr. Tavenner say what he meant.

24 GENERAL VASILIEV: I reserve the right to
25 clarify the position as it is considered by the Soviet

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1 COLONEL SMIRNOV: Your Honor, I would like
2 to make the following statement before the redirect
3 examination of the witness HASHIMOTO, Gun.

4 Your Honor, I would like to inform the Court
5 that the map, being part of exhibit 766 and presented
6 during the cross-examination of the witness HASHIMOTO,
7 Gun on May 20 has been processed and served upon the
8 Court and the defense.

9 Secondly, in the interests of saving time
10 I consider it necessary to give the following explan-
11 ations concerning this map. Exhibit 766 which is a
12 memorandum of the Military History Department of the
13 General Staff of the Soviet Army, Appendix I of which
14 is the map in question shows that the military sketch
15 map bearing the Japanese stamp "Top Secret" was cap-
16 tured in the fighting with the YAMAGATA Separate
17 Detachment in the Nomonhan area.

18 We checked all the inscriptions on the map.
19 Not a word in it is in the Russian or the Mongolian
20 Languages. All names of the inhabited points and
21 other inscriptions are made in the Japanese language.
22 Likewise the stamp "Top Secret" which is in the right-
23 hand top corner of the map is in the Japanese language.
24 We state that this map having been captured by the
25 Soviet Army from the YAMAGATA Japanese Detachment during

1 it seems, is trying to study the origin of the map
2 and trying to study the comparison of several
3 maps. I do not think it is necessary in view of
4 saving time. More so, because my colleague is now
5 going to compare two maps of different scales. One
6 is one to two-hundred thousand and the other is one
7 to five-hundred thousand. He is trying to compare
8 precisely two identical maps.

9 THE PRESIDENT: The scales may not matter,
10 Colonel, but the markings may. If you say that you
11 are not relying upon exhibit 766 as an admission
12 by the Japanese of the boundary line on the map
13 attached to that exhibit, then perhaps, we will save
14 time.

15 COLONEL SMIRNOV: Your Honor, I can repeat
16 once more that submitting this map we merely try to
17 prove the fact that the Yamagata Detachment at the
18 very beginning of the fighting in the Nomonhan Area
19 had a map with a correct boundary line. Besides,
20 it was used by the Japanese during the operations,
21 which is seen from the Japanese inscriptions on the
22 map and the stamp "Top Secret" -- Japanese stamp
23 "Top Secret."

24 MR. BLAKENEY: And I repeat that I am only
25 trying to show that the reason the Yamagata Units

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1 Q You contend that the border line allegedly
2 passed along the river, along the river itself?

3 A No, not so.

4 Q Not so? Then where?

5 A As stated in my affidavit I confirmed the
6 fact that the boundary line lies on the Halha River.
7 In other words, the Halha River is the frontier line.

8 Q The Soviet - Mongolian side contended that
9 the border line passed to the east of the Halha River.
10 Is that correct?

11 A I do not know of the Soviet or Outer Mongolian
12 claim as to this question. Within the confines of
13 my personal study while I was stationed in Horombair
14 as well as what reconnaissance work that I conducted,
15 it was my understanding that the border line was the
16 Halha River itself, and that this was recognized also
17 by the Outer Mongolian-Soviet side.

18 Q You contend that you were engaged in special
19 investigation concerning the state boundary between
20 the Mongolian People's Republic and Manchukuo in the
21 Halha River area, and that you know literary and map
22 materials on this subject, don't you?

23 A Yes.

24 Q Why, then, do you base all your conclusions
25 on the boundary passing along the Halha River only

1 identification.

2 CLERK OF THE COURT: Prosecution document
3 No. 2993-D will receive exhibit No. 2710 for identi-
4 fication only.

5 (Whereupon, the document above
6 referred to was marked prosecution exhibit
7 No. 2710 for identification only.)

8 COLONEL SMIRNOV: May I ask to hand the
9 copies of the map to the Members of the Tribunal
10 and the original of the map to the witness.

11 RUSSIAN INTERPRETER: Correction, please,
12 to the previous statement of the Soviet prosecutor:
13 instead of "Kwantung Territory" it should be "Kwantung
14 Government General."

15 COLONEL SMIRNOV: I should like to ask the
16 witness to look at the map in such a way that some-
17 thing remains from it. May the map be shown to the
18 witness.

19 Q Mr. Witness, pay attention to the inscriptions
20 on this map. Do you see that it was published by the
21 Quartermaster Department of the Kwantung Army in 1911?

22 RUSSIAN INTERPRETER: Not "Quartermaster"
23 but "Intendence Department of the Kwantung Army."

24 A No, that is not so.

25 Q By whom then?

1 there are only plains and no mountains or rivers
2 which could have served as a border, in valleys Obos
3 are consturcted for the purpose of marking the border-
4 line."

5 A I referred to the excerpt just read in con-
6 nection with Obo.
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1 obos marking the boundary either in 1938 or 1939 or
2 earlier?

3 A According to the result of my visit to the
4 spot in 1936 and again in 1938, I can say positively
5 with confidence that I confirm that there were no
6 obo or such symbolic religious structures which
7 could be regarded as serving as a boundary.

8 Q Then, you confirm that in the second para-
9 graph of your affidavit?

10 A What portion of paragraph 2 do you mean?

11 Q I will explain later what I mean. I want to
12 know whether you confirm the end of the second para-
13 graph of your affidavit.

14 A Will you read that portion?

15 COLONEL SMIRNOV: Your Honor, May I pass on
16 to some other question because the Language Section
17 has not the English text of the affidavit?

18 THE PRESIDENT: Yes, we will pass on to
19 something else.

20 Q Do you know that after the border line in
21 the Khalgin-Gol area was changed in 1935 on the Japan-
22 ese maps the Japanese military officers and the head-
23 quarters of the Kwantung Army nevertheless issued
24 for their own use at the headquarters of the Kwantung
25 Army and at the General Staff maps on which the border-

1 line was clearly shown as passing east of the Halha
2 River?

3 A I shall answer that question. No, I don't
4 know.

5 Q In your affidavit you say that in 1938 you
6 carried out special investigations concerning the
7 boundary line in the Halha River area. Apparently
8 you had means and possibilities to study the maps of
9 Mongolia published by the Kwantung Army Headquarters
10 in 1937. Had you the possibilities to use such
11 materials?

12 A I don't remember very well at the present
13 time, but I believe that I did not obtain such refer-
14 ence materials.
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1 THE PRESIDENT: Why didn't you consult the
2 maps of the Kwantung Government General before you
3 went out to make an investigation?

4 THE WITNESS: Before setting out on my survey
5 trip I had already been, in 1936, on the spot for ten
6 months and I did -- it was not necessary for me to
7 refer to a map.

8 THE PRESIDENT: Oh.

9 COLONEL SMIRNOV: But you were head of the
10 reconnaissance department which carried activities
11 vis-a-vis Mongolia -- you were the head of this de-
12 partment in 1938, weren't you?

13 THE WITNESS: No, that is not true.

14 THE PRESIDENT: How can you discover the
15 international boundaries without consulting maps unless
16 there are markings of the boundaries on the spot?

17 THE WITNESS: As I have stated in my affidavit
18 concerning this question, from olden times it had been
19 that where there were -- in pasture lands where there
20 existed a mountain or river, it was customary to regard
21 the river as the boundary.

22 THE PRESIDENT: But you ignored your own
23 official publications. That is difficult to understand.

24 THE WITNESS: I shall explain. Before start-
25 ing out on my survey trip I had been on the spot for

1
2 one sentence which I have just begun, in accordance
3 with your instruction.

4 THE PRESIDENT: Do so after lunch.

5 We will adjourn until half-past one.

6 (Whereupon, at 1200, a recess was
7 taken.)

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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at 1330.4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Major Moore.

7 LANGUAGE ARBITER (Major Moore): If the
8 Tribunal please, exhibit 3177-A, page 2, paragraph
9 marked 1 has been referred. We recommend that the
10 sentence be deleted and substitute the following:
11 "In South China to hear the names of Major Generals
12 DOHIHARA and ITAGAKI is something like 'mention a
13 tiger and the people turn pale.'"
14

15 THE PRESIDENT: Thank you, Major.

16 Judge Nyi.

17 - - -

18 K A Z U E K U W A J I M A, called as a witness on
19 behalf of the defense, resumed the stand and tes-
20 tified through Japanese interpreters as follows:

21 CROSS-EXAMINATION

22 JUDGE NYI: May it please the Court, before
23 the recess I was about to read a sentence in exhibit
24 300. I think the language section is ready with this
25 document and, if it please the Court, I will proceed
to read:

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

HASHIMOTO

CROSS

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1 Q May I ask you, first, to show by a pencil
2 mark the area of the Nomongan area fighting; the
3 area of the fighting?

4 THE PRESIDENT: He had better use a letter
5 or a number.

6 Q Secondly, maybe you will pay attention as
7 to where the frontier line is marked on this map, and
8 that it is marked along the Khalhin-Gol River.

9 RUSSIAN MONITOR: Whether it is marked along
10 the river.

11 A As I have been saying repeatedly, from this
12 point -- in this area, I thought of the river as the
13 border.

14 Q This is not the language a military man should
15 speak. I ask you to indicate precisely where the
16 frontier line passes, along the River Khalhin-Gol or
17 to the east of this river?

18 A I have drawn a red line on this map.

19 Q Maybe you will answer me in words. Maybe
20 you will tell me in words whether the frontier line
21 passes along the Khalhin-Gol River or to the east of
22 that river?

23 A It passes along the line of the Halkhin
24 River. The Halkhin River is the border.

25 COLONEL SMIRNOV: Your Honor, in view of this

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1 Q Is not the Asahi Shimbun a newspaper with the
2 largest circulation in Japan at the time that your
3 cabinet was in power?

4 A Yes.

5 MR. SUTTON: May it please the Tribunal, we
6 are having brought to the courtroom a magnifying glass.

7 THE PRESIDENT: In the meantime, let Major
8 Moore have a look at that.

9 MR. LAZARUS: As a matter of fact, the pros-
10 ecutor's wisecracks are unnecessary because I know
11 Admiral YONAI can't read without a magnifying glass,
12 Mr. President.

13 THE PRESIDENT: If Admiral YONAI could read
14 without a magnifying glass, after that he could well
15 say that he can't. He has got two prompts from the bar
16 table which were quite improper -- quite improper --
17 and would lead to strong action in any other court but
18 this. But there are reasons why we should not take
19 drastic action at this stage. He professed the ability
20 to read that print until Dr. KANZAKI spoke. He
21 disclaimed inability to read without a magnifying
22 glass; he may now, though.

23 Q Now that you have a magnifying glass, will
24 you again examine the article and reply to the question
25 of the President of the Tribunal?

22 SEPTEMBER 1947

I N D E X

Of

EXHIBITS

Doc. No.	Def. No.	Pros. No.	Description	For Ident.	In Evidence
		3199	Publication "Asahi Shim- bum" containing the issue of 17 July 1940	28941	
2999-D		3199-A	Excerpt therefrom		28941
2049	3200		Affidavit of ARITA, Hac- hiro		28945
		3201	Record of the Proceedings of the Budget Committee of the 75th Diet	28973	
2008	3202		Affidavit of NODA, Kengo		28995
1988	3203		Affidavit of INUMA, Mamoru		28997
2605	3204		Affidavit of OIKAWA, Ko- shiro		29003
2204	3205		Affidavit of SAWADA, Shigero		29008

1 THE PRESIDENT: The objection is overruled
2 and the question allowed, by a majority.

3 MR. KEENAN: Mr. President, I have a record,
4 which we contend to be a record of the proceedings of
5 the Budget Committee of the 75th Diet, to be marked
6 for identification.

7 CLERK OF THE COURT: Prosecution document
8 entitled, "Proceedings of the 75th Diet," will
9 receive exhibit No. 3201 for identification only.

10 (Whereupon, the document above
11 referred to was marked prosecution exhibit
12 No. 3201 for identification.)

13 MR. KEENAN: May I have that record ex-
14 hibited to the witness?

15 (Whereupon, a document was handed
16 to the witness.)

17 BY MR. KEENAN (Continued):

18 Q I will ask you to refer to that part of the
19 exhibit handed you, containing the question from
20 Committee Member KUBOI and your answer, and I will ask
21 if that is not one of the regularly kept records that
22 you recognize of such proceedings.

23 MR. KEENAN: Mr President, in the interest
24 of saving time, I am asking the Language Section to
25 follow the reading of the question in English and in

1 THE PRESIDENT: Now where is the letter?
2 BY MR. LAZARUS:

3 Q General SAWADA, will you please tell the
4 Tribunal what became of the letter you state you
5 delivered to General HATA?

6 A I delivered this letter to War Minister
7 HATA at the War Minister's official residence. I
8 do not know what became of the letter after that.

9 THE PRESIDENT: Well, General HATA may
10 know if he goes into the box. He is the person
11 who primarily should account for it, but this wit-
12 ness may have discovered from him what happened to
13 it. I do not know. We have been admitting hearsay.

14 Q Did you at any time later find out what
15 happened to this letter or hear of any trace of it,
16 General?

17 A I have heard nothing.

18 THE PRESIDENT: Apparently, he didn't try
19 to get it; so he is not properly accounting for its
20 absence.

21 MR. LAZARUS: The rule as to documents, Mr.
22 President, has been in existence for a long time, and
23 we recognize it. However, sir, here is a situation
24 where if a technical rule were to be strictly applied
25 the entire case of one accused will fail of proof

1 War Ministers was being strongly urged. Indeed,
2 this consensus of opinion of military circles was
3 reflected in the decision of the Chief of the General
4 Staff and this decision" --

5 THE PRESIDENT: You will stop there.

6 MR. LAZARUS: Yes, sir.

7 Now, sir, in view of the fact that we do
8 not take any quotes or even the substance of the
9 letter, and in view of the fact that the Tribunal has
10 already allowed us to say the letter was sealed, signed
11 and delivered, I respectfully submit that there is no
12 violation of the rule against documents if the last
13 one and one-half lines were to be read in this sen-
14 tence, sir.

15 THE PRESIDENT: To admit that would be to
16 admit part of the contents of the letter, at least
17 part, and the whole of the contents is excluded,
18 not merely part.

19 MR. LAZARUS: Well, then, may I read from
20 "and" until the word "HATA" without referring to the
21 rest of it, sir?

22 THE PRESIDENT: No because you have revealed
23 it was conveyed by letter, and you must produce the
24 letter.

25 MR. LAZARUS: There will be a few questions

1 to be fit for the post in view of his practical experi-
2 ence in that line of business."

3 You may cross-examine.

4 THE PRESIDENT: Brigadier Quilliam.

5 BRIGADIER QUILLIAM: May it please the
6 Tribunal, there will be no cross-examination.

7 MR. G. WILLIAMS: We ask that the witness be
8 released on the usual terms.

9 THE PRESIDENT: He is released accordingly.

10 (Whereupon, the witness was excused.)

11 MR. G. WILLIAMS: We call as our next witness
12 MATSUKI, Tamotsu.

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29 MAY 1947

I N D E X
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EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
1155	2672		Affidavit of YANO, M. sao		23271
1154	2673		Affidavit of MATSUMURA, Tomokatsu		23282
1149	2674		Affidavit of FUTAMI, Akishuro		23287
1145	2675		Affidavit of TANABE, Moritake (except 3rd paragraph)		23291
1323	2676		Affidavit of TANAKA, Shinichi		23303

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

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CROSS EXAMINATION

1 BY COLONEL IVANOV:

2 Q Mr. Witness, in your affidavit you give the
3 text of UMEZU's statements made in 1939 and put them
4 into inverted commas. Do you do this from memory, do
5 you? Don't you?

6 A I do not understand, but what do you mean
7 by putting into parenthesis?

8 Q You give in your affidavit the words said by
9 UMEZU and placed them into inverted commas, and thus
10 you quote these words. Are you doing this from
11 memory?

12 A Will you tell me -- give me the subject
13 matter because that alone -- does not enlighten me at
14 all as to what you mean by -- if you will indicate the
15 location and contents thereof I may be able to answer
16 your question more intelligently.

17 THE PRESIDENT: He refers to UMEZU's state-
18 ment, "the fire must be stopped, etc."

19 A (Continuing) I said this because my memory
20 on that matter is very fresh because General UMEZU
21 repeated this frequently.

22 Q There is a second UMEZU statement which is
23 given at the end of your affidavit and which is placed
24 also in inverted commas, that is the words, "We are in
25

1 drive home to the officers and men, on the occasion
2 of this reinforcement, the idea that it did not mean
3 the commencement of military operations. Frontier
4 incidents were also to be avoided by them.

5 "(4) Since the end of July 1941 we started
6 a study of a plan of operations against the USSR
7 which was different from that of 1941. The study of
8 the new plan of operations against the USSR which
9 would fit the situation was necessitated by the
10 declaration on 2 July 1941 of a national policy of
11 preparedness for war with the United States and
12 Britain, if unavoidable. But in consideration of
13 the foregoing paragraph (2), and the changes of the
14 trends of the times, which required serious consider-
15 ation of our relations with the United States, the
16 Chief of the General Staff again ordered the vice-
17 chief and the 1st Division Chief to study the new
18 operation plan against the USSR, as well as the
19 operations plans against Britain and America which
20 were correlated with the former. It was because the
21 Chief of the General Staff came to consider that if
22 operations against the United States and Britain
23 should be taken into consideration at all, a con-
24 siderable decrease, contradictory to the annual
25 operations plan, in the strength available for the

9 the Foreign Ministry.)

10 "(However, in case a time limit is attached,
11 an understanding shall be reached that on its expiration
12 another disarmed zone shall be newly-established along
13 the Sino-Manchurian border, drawn by a fixed line (for
14 instance, 30 kilometers from the Great Wall.)

15 "(Marginal note: Second plan, taken as the

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

TANAKA, S.

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1 drive home to the officers and men, on the occasion
2 of this reinforcement, the idea that it did not mean
3 the commencement of military operations. Frontier
4 incidents were also to be avoided by them.
5 "(4) Since the end of July 1941 we started
6 a study of a plan of operations against the USSR
7 which was different from that of 1941. The study of
8 the new plan of operations against the USSR which
9 would fit the situation was necessitated by the
10 declaration on 2 July 1941 of a national policy of
11 preparedness for war with the United States and
12 Britain, if unavoidable. But in consideration of
13 the foregoing paragraph (2), and the changes of the
14 trends of the times, which required serious consider-
15 ation of our relations with the United States, the
16 Chief of the General Staff again ordered the vice-
17 chief and the 1st Division Chief to study the new
18 operation plan against the USSR, as well as the
19 operations plans against Britain and America which
20 were correlated with the former. It was because the
21 Chief of the General Staff came to consider that if
22 operations against the United States and Britain
23 should be taken into consideration at all, a con-
24 siderable decrease, contradictory to the annual
25 operations plan, in the strength available for the

1 Q Now, my question is like this: It was the
2 continuation of the cabinet -- previous cabinet
3 meeting as recorded in KIDO's diary and he, KIDO,
4 was recording the cabinet meeting, not the Five
5 Ministers Conferences.

6 A Under the Japanese system, the Lord Keeper of
7 the Privy Seal has no relations or no connections
8 with the cabinet -- cabinet meeting.

9 Q Now, do you recall that there are occasions
10 where the Five Ministers Conference decisions were
11 refuted by the cabinet meeting?

12 A Perhaps, although rarely, there might have
13 been such a case, but I do not recall anything specifi-
14 cally now.

15 Q All right. Now, Mr. Witness, may I ask you
16 what your present age is?

17 A 81 by Japanese reckoning.

18 BY JUDGE NYI: Thank you very much. This
19 concludes my cross-examination.

20 THE PRESIDENT: Captain Kraft.

21 LANGUAGE ARBITER (Captain Kraft): If the
22 Tribunal please, the following language correction is
23 submitted: Exhibit No. 3899, defense document 3047,
24 revised, page 5, line 8, delete "establishing" and
25 substitute "supporting,"

1 of the camp at Nagoya whether there was anything
2 special you wanted to say. Did you on that occasion
3 that you inspected the camp find anything seriously
4 wrong to report?

5 A No, I did not find anything in particular.

6 Q Now, you found then nothing particular upon
7 which complaints could be based; is that correct?

8 A No, there was nothing that I could find.

9 MR. FURNESS: That is all, your Honor.

10 May the witness be released on the usual terms?

11 THE PRESIDENT: He is released accordingly.

12 (Whereupon, the witness was excused.)

13 (SURREBUTTAL EVIDENCE CLOSED.)

14 THE PRESIDENT: Mr. Logan.

15 MR. LOGAN: If the Tribunal please, on behalf
16 of the accoused KIDO.

17 The Tribunal has ruled that evidence in
18 mitigation shall be offered upon the completion of all
19 other evidence and before summation. This, of course,
20 is dissimilar to the practice in those countries where
21 proceedings in mitigation are held after the verdict
22 and before sentence.

23 It thus becomes incumbent upon the defense
24 to decide whether to offer mitigation evidence at this
25 time with its intendant inference of guilt, or

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

23,629

1 MR. BLAKENEY: Of course, if they wish to
2 announce a noole pros, that is another matter.

3 THE PRESIDENT: After all they are always
4 at liberty to abandon any part of their case if they
5 wish to do so, if they have made a case. I do not
6 know that they have but we would like to know their
7 attitude before you go further.

8 (Whereupon, General Vasiliev
9 approached the lectern.)

10 THE PRESIDENT: We do not desire to hear
11 two counsel on the same side on the same point. We
12 desire to hear the acting Chief Prosecutor or Chief
13 of Counsel.

14 GENERAL VASILIEV: I follow your ruling,
15 your Honor, but in my submission the position of the
16 Soviet prosecution may be explained by us better than
17 by anybody else. Only for the purpose of clarifying
18 the position I would like to say a few words and, of
19 course, Mr. Tavenner is preferably entitled to speak
20 after me.

21 THE PRESIDENT: Now we want to hear what
22 Mr. Tavenner says as to his meaning. We have quoted
23 Mr. Tavenner. Let Mr. Tavenner say what he meant.

24 GENERAL VASILIEV: I deserve the right to
25 clarify the position as it is considered by the Soviet

HASHIMOTO

REDIRECT

1 prosecutors so I suppose it is necessary only to
2 say that we again object and request that his remarks
3 be disregarded insofar as they deal with matters of
4 fact.

5 COLONEL SMIRNOV: Your Honor, I didn't
6 wish to give argument but I merely wanted to state
7 the position of the prosecution for the purpose of
8 avoiding tilting windmills as it were in some cases
9 on the part of the defense while submitting other
10 matters.

11 THE PRESIDENT: Whenever receiving any
12 explanations we will, of course, disregard everything --
13 every statement which should be the subject of evidence.

14 MR. BLAKENEY: I now proceed to adduce
15 evidence.

16 - - -

17 G U N H A S H I M O T O, recalled as a witness on
18 behalf of the defense, having been previously
19 sworn, testified through Japanese interpreters
20 as follows:

21 REDIRECT EXAMINATION

22 BY MR. BLAKENEY:

23 I call attention to the fact that the
24 testimony already given by this witness may be found
25 on pages of the transcript 22,576 - 22,666.

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Smirnov.

4 COLONEL SMIRNOV: Your Honor, I would like
5 once more to draw the attention of the Tribunal to the
6 fact that we merely tried to prove by this map that
7 this map was in the operational use of the YAMAGATA
8 detachment. We do not know whether this map was
9 originally drawn up by the Japanese or they merely
10 copied it from the Soviet map. There are no inscrip-
11 tions on the map showing the date of the publishing
12 and the place of the publishing of the map, but all
13 the inscriptions on the map are made in Japanese and
14 there is a Japanese stamp meaning "top secret." There-
15 fore, it is an operational Japanese map.

16 THE PRESIDENT: Well, if we do not know
17 whether it is a Japanese map or a Russian map, can
18 we treat it as an admission by the Japanese of the
19 boundary appearing on the map?

20 COLONEL SMIRNOV: Your Honor, we submitted
21 this map only to prove that the first YAMAGATA detach-
22 ment, the first Japanese detachment who started the
23 fighting in this area had a map with the correct border-
24 line on it.

25 THE PRESIDENT: But even you say that may

4 AUGUST 1947

I N D E X
of
WITNESSES

<u>Defense' Witnesses</u>	<u>Page</u>
OKADA, Kikusaburo (recalled)	24853
Direct by Mr. Logan	24853

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 MR. LOGAN: If the Tribunal please, you have
2 made a suggestion that we might get some data from
3 Washington. That is where this comes from.

4 THE PRESIDENT: I said from other sources in
5 Washington, from sources that wouldn't be the subject
6 of a cover note, "This material is irreconcilable in
7 parts." I think, Mr. Logan, you had better try to
8 arrange with the prosecution to accept as much of this
9 as you think will help. At this stage of the case we
10 have not time to read that mass of material with a view
11 to extracting what is relevant and helpful. Speaking
12 for myself, that cover note would prevent me from
13 reading a line of it, and yet we are told there may
14 be some valuable material in it.

15 MR. LOGAN: I might say this that might
16 clarify the Tribunal's position; that these documents
17 have been offered and that they will be referred to
18 later. I don't intend to burden the Court by reading
19 any part of them, but they do contain factual information
20 by which we intend to show that the economic sanctions
21 as applied by the Western Powers hit these particular
22 industries which are vital to Japan.

24 THE PRESIDENT: Could you indicate the pages
25 you would like us to read, Mr. Logan?

MR. LOGAN: I don't ask the Tribunal to read any

1 unnecessarily -- and the very object of this long
2 recess has not been taken advantage of in respect of
3 these documents.

4 THE PRESIDENT: Well, you suggest that these
5 documents contain a lot of material upon which you
6 are prepared to agree with the defense.

7 BRIGADIER QUILLIAM: Not a lot, if it please
8 your Honor. I merely say that there is relevant
9 evidence contained in this big mass.

10 THE PRESIDENT: Perhaps you will admit enough
11 of it for the defense purposes, and can agree on a
12 better statement than appears here.

13 BRIGADIER QUILLIAM: We would be very happy,
14 sir, to consider a request to admit parts of these
15 documents, but we object to their being admitted in
16 their present form without any intimation as to what
17 use is to be made of them, and containing as they do
18 so much that is quite irrelevant.

19 THE PRESIDENT: Well, we cannot accept that
20 bundle in that condition. The cover note is a warning.
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1 MR. LOGAN: I am trying to do that in the
2 most logical way possible, your Honor, by showing
3 the necessity for it in the first place, to show
4 that it was a civilian economy and not a military
5 economy that was built up in Japan and that is why
6 our industrial plan was established. I thought
7 I had clearly explained that in my opening state-
8 ment just how I intended to prove it and how I was
9 going about it.

10 THE PRESIDENT: That ought to be clear on
11 your purposes, Mr. Logan. One of your reasons for
12 war was the blockage of immigration. Now you say
13 you did not really want immigration, you wanted
14 more people for ordinary industrial development.
15 What do you mean? I dislike argument with you at
16 this stage, Mr. Logan, but I would like the defense
17 to make its position clear. Perhaps it may be made
18 clear.
19

20 MR. LOGAN: At no time have I advocated
21 more people for the development and industrialization
22 of Japan. Our position is this: That Japan is an
23 island nation, she was overpopulated, she tried to
24 overcome that difficulty by various means such as
25 increasing the amount of arable land by increasing
the amount of arable land in Formosa and Korea and also

1 study, and I would like to read what the Brigadier
2 omitted from the little preface. "It is composed" --
3 the Institute, "is composed of National Councils in
4 eleven countries;" America, Australia, Canada, China,
5 France, Japan, Netherlands, New Zealand, the Philip-
6 pines, Great Britain, and U.S.S.R. The foreword,
7 which the Brigadier did not read to you, is two and
8 half pages long, and from that it appears that
9 this Institute meets and studies various problems,
10 and when an article is written by one of the members,
11 it is submitted to the other members for criticisms,
12 suggestions, and corrections, and this foreword was
13 written by the Secretary-General of the Institute.

14 THE PRESIDENT: It is well and favorably known
15 in all Pacific countries, including my own. I do
16 not think any of us want to be told just what the
17 Institute does. It is a very valuable society. But
18 the question for us is, can we allow ~~this professor to~~
19 form conclusions which it is our duty to draw.

20 Your strongest point, Mr. Logan, is that
21 excerpts from this very book, or by this particular
22 man, have already been received. But, it depends
23 on what the majority thinks from time to time.
24 There is no way of controlling what the majority thinks.
25

1 Tuesday, 5 August 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE STUART McDOUGALL,
15 Member from the Dominion of Canada; HONORABLE JUSTICE
16 I. M. ZARAYANOV, Member from the USSR; and HONORABLE
17 JUSTICE E. H. NORTHCROFT, Member from the Dominion of
18 New Zealand, not sitting from 0930 to 1600.

19 For the Prosecution Section, same as before.

20 For the Defense Section, same as before.

21 - - -

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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AFTERNOON SESSION

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If the Tribunal please, we now
5 offer in evidence defense document 501D which is an
6 excerpt from the Far East Year Book of 1941. This
7 document is offered for the purpose of showing the
8 national debt of Japan up to 1940.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Defense document 501D
11 will receive exhibit No. 2770.

12 (Whereupon, the document above re-
13 ferred to was marked defense exhibit No.
14 2770 and received in evidence.)

15 MR. LOGAN: I now read exhibit 2770, being
16 defense document 501D from the Far East Year Book of
17 1941, page 239.

"NATIONAL DEBT

19 "The Russo-Japanese War 1904-05 increased the
20 debt by 1,500 millions, making a total of 2,189 millions.
21 For the railway nationalization, 606 millions was raised
22 in 1906, the total rising to 2,585 millions on the
23
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NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 level of which the debt was stabilized with no remark-
2 able increase until the end of the World War. From the
3 Armistice, the national debt began to increase rather
4 steadily.
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1 On July 18, 1941 a memorandum by the
2 Acting Secretary of State was issued regarding a
3 request by the Japanese Ambassador with respect to
4 certain Japanese steamers which had been held up at
5 the Panama Canal. This is set forth in defense
6 document 1400-M-5, which is offered in evidence.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: May it please the
9 Tribunal, it is submitted that this document is
10 also quite immaterial. It is merely a request for
11 assistance in getting some Japanese ships through
12 the Panama Canal and a promise to investigate the
13 position and see what could be done. It is submitted
14 that it contributes nothing whatever to the case.

15 MR. LOGAN: It shows, if the Tribunal
16 please, that as early as July 18, 1941 economic
17 pressure was also applied against Japanese shipping
18 by holding up ships coming through the canal.

19 THE PRESIDENT: Well, you have given evidence
20 on the embargo against the use of American goods.
21 This is evidence of an embargo against the use of
22 American canals or canals controlled by America. We
23 admitted an embargo against goods tentatively.

24 BRIGADIER QUILLIAM: May it please your
25 Honor, it is suggested that this does not show an

1 which he reported as follows: that Minister WAKASUGI
2 had had an interview with Under Secretary Welles at
3 which some suggestion was made concerning future
4 negotiations?

5 A Yes, I do recall a telegram to that effect
6 from the United States.

7 MR. BLAKENEY: Please let the witness be
8 handed defense document No. 1401-Z-1.

9 Q Please look at the document which is being
10 handed to you, and state whether you can recognize
11 it as the report in question.

12 A This is the document which I recall.

13 Q Was this report called to the attention of
14 the Liaison Conference?

15 A This report was brought to the attention of
16 the Liaison Conference about the end of October,
17 which said conference was in the midst of drawing up
18 concrete proposals vis-a-vis the Japanese-American
19 negotiations.

20 THE INTERPRETER: Correction: "This telegram
21 arrived at the end of October, when," etc.

22 A (Continuing) As for us, after reading the
23 statements made by Welles in the report, we felt
24 that it would be difficult to reach -- arrive at any
25 solution of the pending issues between the two

NOTE:

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corresponding pages in the record.

time.

1 THE MONITOR: Between the 23rd of October
2 and early November.

3 Q (Continuing) Were there not other important
4 matters, from the standpoint of national defense,
5 argued by the two Chiefs of Staff, that is to say, the
6 Chief of the Army General Staff and the Chief of the
7 Navy General Staff at that time?
8

9 A Yes, very serious discussions were held with
10 regard to military materials, especially synthetic oil
11 or liquid fuel.

12 Q As my last question, I refer to page 12 of
13 the English affidavit. At the top of the page you
14 refer to the fixing of the time for delivery of the
15 notification to the American Government. Was this
16 matter actually decided at the Liaison Conference it-
17 self or was it decided elsewhere?

18 A With reference to this question, at first
19 the matters were discussed between the Foreign Mini-
20 ster and representatives of the High Command, and
21 the results of their discussions were reported and
22 received the approval of the Liaison Conference itself.
23

24 DR. KIYOSE: That concludes my direct exam-
25 ination.

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1 T O S H I K A Z U K A S E, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 MR. BLAKENEY: Before qualifying the wit-
6 ness I should like to call attention to a typograph-
7 ical error in the affidavit: On page 2, paragraph 3,
8 line 4, between the words "been" and "delivered"
9 there should be inserted the words "cabled to Wash-
10 ington to be", so that the sentence will read: "The
11 memorandum is unrelated to the President's message,
12 it having been cabled to Washington to be delivered
13 to Mr. Hull before Mr. TOGO saw the Emperor on the
14 matter."
15

16 DIRECT EXAMINATION

17 BY MR. BLAKENEY:

18 Q Please state your name.

19 A Kase, Toshikazu.

20 Q Where is your residence?

21 A Kamakura, Omachi, Tasane 330.

22 Q What is your occupation?

23 A Counsel of Embassy.

24 Q I wish that you be handed defense document
25 number 2063 and that you examine that and state to

1 the Tribunal whether it is your affidavit, bearing
2 your signature and seal.

3 A It is my affidavit and bears my signature.

4 Q Are the contents thereof true and correct?

5 A True and correct.

6 MR. BLAKENEY: I offer the affidavit in
7 evidence.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document 2063
10 will receive exhibit Number 2960.

11 (Whereupon the document referred to
12 was marked defense exhibit No. 2960 and received
13 in evidence.)

14 MR. BLAKENEY: I now read the exhibit which,
15 omitting the formal parts, is as follows:

16 "1. I entered the Japanese Foreign Ministry
17 in 1925 and was appointed Chief of the First Section
18 of the Bureau of American Affairs of that ministry
19 in November 1941, continuing in that position until
20 April 1943. In the Course of my official duties as
21 such section chief I was familiar with the matters
22 herein testified to.

23 "2. Soon after my arrival at the Foreign
24 Ministry at about 10 o'clock in the morning of 7
25 December 1941 (Tokyo time), I received information

1 from the Domei News Agency that the United Press
2 had carried a report to the effect that the State
3 Department had announced the dispatch of a personal
4 message by President Roosevelt addressed to His
5 Majesty the Emperor. I immediately reported the
6 matter to my superiors, including Messrs. TOGO, the
7 Foreign Minister, NISHI, Vice Foreign Minister and
8 YAMAMOTO, the Director of the American Bureau. I
9 then telephoned to alert Marquis MATSUDAIRA, private
10 secretary to the Lord Privy Seal, and asked him to
11 let us know at once when and if the Imperial Palace
12 received the President's message. For we were under
13 the impression that, being a personal message, it
14 would be sent directly to the Emperor, as in the
15 case of the Panay incident of December 1937. An
16 urgent telegram was dispatched without delay to Ad-
17 miral NOMURA, our Ambassador in Washington, instruct-
18 ing him to make inquiries into, and report back upon
19 the matter (telegram No. 905, from TOGO to NOMURA,
20 Defense Document No. 1401-F-3)," which at this point
21 I offer in evidence.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense Document 1401-
24 F-3 will receive exhibit No. 2961.

25 (Whereupon the document above referred to

1 was marked defense exhibit No. 2961, and re-
2 ceived in evidence.

3 MR. BLAKENEY: I shall read the exhibit:

4 "From TOGO to NOMURA.

5 "7 December 1941.

6 "The AP and UP news agencies report that
7 the State Department has disclosed the dispatch by
8 the President of a personal telegram to the Emperor.
9 Make report immediately about the facts thereof."

10 Continuing with the affidavit:

11 "Apparently crossing this telegram on the
12 way, a short dispatch from Admiral NOMURA arrived
13 at the Foreign Ministry in the afternoon (telegram
14 No. 1275 from NOMURA to TOGO, Defense Document No.
15 1401-E-3)," which I offer in evidence.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Defense Document
18 No. 1401-E-3 will receive Exhibit No. 2962.

19 (Whereupon the document above referred
20 to was marked defense exhibit No. 2962, and re-
21 ceived in evidence.)

22 MR. BLAKENEY: I read this telegram, which
23 is from NOMURA to TOGO, dated 6 December, 1941:

24 "In the evening of the 6th, the Depart-
25 ment of State disclosed that the President had dis-

pig-iron went on increasing. This was caused by the need for taking a counter-measure to the decrease in import of scrap-iron. At the same time, however, it was inevitable that the amount of iron-ore in the storehouse must decrease rapidly. For instance, the amount in store at the YAWATA Foundry, which held 90% of the entire amount of stored ore in Japan, was as follows:

"(Unit 1000 Tons)

"(Iron-ore cooperative council)

<u>"March 1940</u>	<u>March 1941</u>	<u>Sept 1941</u>	<u>March 1942</u>	<u>Sept 1942</u>
3,324	2,900	2,049	1,177	882

"Accordingly, combination rate of pig-iron and scrap-iron at the iron manufactory had to be changed to prevailing conditions. Combination rates of pig-iron and scrap-iron in steel-ingot are as follows every year from 1935 to 1941.

"From data of the iron-ore cooperative council

"(Unit 1000 Metric Tons)

	<u>Consumption of pig-iron</u>	<u>Consumption of scrap-iron</u>	<u>Combination pig-iron</u>	<u>Scrap- iron</u>
1935	2075	2981	41	59
1936	2358	3213	42	58
1937	2336	4085	36	64
1938	2276	4142	35	65
1939	2932	4542	39	61
1940	3409	4189	45	55
1941	4051	3418	54	46

YAMAMOTO

25,874-1/2

1 K U M A I C H I Y A M A M O T O, recalled as a wit-
2 ness on behalf of the defense, having been
3 previously sworn, testified through Japanese
4 interpreters as follows:

5 THE PRESIDENT: You are still on your former
6 oath, Witness.

7 Mr. Brannon.

8 MR. BRANNON: If the Tribunal please, I have
9 been instructed by the accused former Admiral SHIMADA
10 and OKA to inform the Tribunal that they strongly
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YAMAMOTO

DIRECT

1 processed and served under the rule of the Tribunal.

2 THE PRESIDENT: As they are not rebutting
3 evidence, I cannot tell you, you ought to wait
4 until rebuttal. But as we should have the originals
5 I think it is the duty of the Court to ask for
6 them even in the course of the defense case. I
7 understand there is no question about these being
8 the originals?

9 MR. TAVENNER: That is precisely the
10 reason, your Honor, why we felt we should present
11 the originals now, as soon as it came to our
12 attention that they had not been presented in the
13 first instance, and we take the position that with
14 the originals available, this section of the
15 affidavit is objectionable because the witness
16 is attempting to construe the documents himself
17 and make the comparison, where that is a matter
18 in the province of the Tribunal.

19 MR. BLAKENEY: I should point out to the
20 Tribunal that in one or two instances -- my memory
21 is not accurate -- we are tendering already the
22 original telegrams.

23 THE PRESIDENT: How can you, if the prosecu-
24 tion has the custody of them? It is unheard of
25 for the prosecution to tender documents in its

1 processed and served under the rule of the Tribunal.

2 THE PRESIDENT: As they are not rebutting
3 evidence, I cannot tell you, you ought to wait
4 until rebuttal. But as we should have the originals
5 I think it is the duty of the Court to ask for
6 them even in the course of the defense case. I
7 understand there is no question about these being
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15 affidavit is objectionable because the witness
16 is attempting to construe the documents himself
17 and make the comparison, where that is a matter
18 in the province of the Tribunal.

19 MR. BLAKENEY: I should point out to the
20 Tribunal that in one or two instances -- my memory
21 is not accurate -- we are tendering already the
22 original telegrams.

23 THE PRESIDENT: How can you, if the prosecu-
24 tion has the custody of them? It is unheard of
25 for the prosecution to tender documents in its

1 on these proposals was sent, defense document No.
2 1401-D-2" which is offered in evidence.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 1401-D-2
5 will receive exhibit No. 2926.

6 (Whereupon, the document above
7 referred to was marked Defense exhibit
8 No. 2926 and received in evidence.)

9 MR. BLAKENEY: I read the exhibit, which is
10 a telegram from TOGO to NOMURA, dated 5 November 1941.

11 "1. Our proposals in the Japanese-American
12 negotiations mentioned in my telegram No. 725 were
13 approved at the Imperial Conference held today, the 5th.
14 You are directed, therefore, to commence negotiations
15 immediately in accordance with the previous instruc-
16 tions.

17 "2. In view of the course of negotiations
18 so far, we consider that it will meet the desire of the
19 United States if we proceed with the negotiations on
20 the basis of the 21 June proposal -- 25 September
21 proposal from our side. It is therefore considered
22 more convenient for the speedy conclusion of the ne-
23 gotiations first to present Proposal 'A' (my telegram
24 No. 726). (We are not quite satisfied with the form
25 and expression of the proposed Japanese-American under-

YAMAMOTO

DIRECT

1 standing which has so far been discussed, but we mean
2 to present Proposal 'A' first for the sake of conven-
3 ience.) You are directed to explain the above to the
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1 posal is to be dealt with in relation to the Japanese-
2 American negotiations, to ascertain as full particu-
3 lars as possible of the intention of the American
4 Government with respect to the concrete steps to
5 be taken in this matter, and to telegraph the
6 results."

7 I now offer in evidence Defense Document
8 1401-J-2.
9

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document
12 1401-J-2 will receive Exhibit No. 2931.

13 (Whereupon, the document above referred
14 to was marked Exhibit No. 2931, and received in
15 evidence.)

16 MR. BLAKENEY: I read the telegram from
17 TOGO to NOMURA, 10 November 1941:

18 "Reference to my telegram No. 751.

19 "It is considered advisable to have Hull's
20 proposal realized. You are directed to talk with the
21 United States after referring to my separate telegram
22 No. 755 so as to persuade her to the realization of
23 the proposal."

24 And the telegram therein referred to I offer
25 in evidence as Defense Document 1401-K-2.

YAMAMOTO

DIRECT

1 "16. During this period additional attempted
2 concessions were offered in the effort to meet the
3 American position. The American Government having,
4 in its oral statement of 12 November (defense document
5 No. 1400-B-7), requested confirmation of the Japanese
6 position on a number of points communicated to the
7 President in August, the Foreign Ministry on 16
8 November confirmed that the present cabinet adhered
9 to the same position (defense documents Nos. 1401-0-2
10 and 1400-C-7)."

11
12 I now offer in evidence defense document
13 No. 1400-B-7.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document
16 1400-B-7 will receive exhibit No. 2935.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 2935 and received in evidence.)

20 MR. BLAKENEY: I read the exhibit which is
21 an excerpt from "Foreign Relations of the United States.

22 "Oral Statement Handed by the Secretary of
23 State to the Japanese Ambassador (NOHURA) on November
24 12, 1941.

25 "It will be recalled that the documents
communicated by the Japanese Ambassador to the

1 only in order to express the qualification which is
2 due to and necessary for an sic sovereign state and
3 were not intended to limit or narrow down in any way
4 the peaceful intentions of the Japanese Government."

5 Reverting to the affidavit:

6 "Japan further agreed, at the American
7 request, to the deletion from the proposal of 25
8 September of the restriction of the question of
9 political stabilization to the Southwestern Pacific
10 area, defense documents No. 1401-P-2 and 1400-D-7,"
11 the first of which I now offer in evidence.

12 THE PRESIDENT: Admitted on the usual **terms**.

13 CLERK OF THE COURT: Defense document
14 1401-P-2 will receive exhibit No. 2938.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 2938 and received in evidence.)

18 MR. BLAKENEY: I read the exhibit, which is
19 a telegram from TOGO to NOMURA, 17 November 1941.

20 "In reference to your telegram No. 1110.

21 "We have no objection to applying it, as
22 proposed by the United States, to the entire Pacific
23 area, and therefore no objection to striking out
24 'Southwestern' from Article 6 of our 25 September
25 proposal."

1 did not improve. In these circumstances, the
2 Foreign Minister reported to the Liaison Conference
3 that there was no prospect of American acceptance of
4 Proposal 'A', and the presentation of Proposal 'B'
5 was authorized. Ambassador NOMURA was accordingly
6 directed to present it, which was done on the 20th.

7 "The Negotiations, 20-26 November

8 "17. Proposal 'B' has already been fully
9 explained above. It having been formulated, after
10 much discussion, with a view to making the greatest
11 possible concessions, we expected it to be favorably
12 entertained by the United States, in the light of a
13 modus vivendi to promote a more favorable atmosphere
14 in which negotiations could be carried on, as was
15 explained to Secretary Hull on the 20th, defense
16 document No. 1401-R-2," which I offer in evidence.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document
19 1401-R-2 will receive exhibit No. 2941.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 2941 and received in evidence.)
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1 THE PRESIDENT: I am dealing with another
2 phase of that diary, the confidence of the Japanese
3 in the result of the war they were about to declare
4 or to engage in. But I don't share your view of the
5 constitutional position of the Emperor. If a cabinet
6 advises a king to commit a crime, and the king directs
7 that it be committed, there is no constitutional pro-
8 tection.

9 MR. LOGAN: But if the cabinet advises the
10 Emperor--

11 THE PRESIDENT: The king can do no wrong
12 under the constitution.

13 MR. LOGAN: If the cabinet advises the Empero
14 that it is necessary for the country to go to war for
15 self-preservation and self-defense, self-defense is a
16 good defense to any crime. They didn't want to go to
17 war, your Honor. All the evidence points against it.
18 They knew that they couldn't win the war and the prose
19 cution evidence so shows it and so does ours. They
20 were driven to it.
21
22

NOTE?

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 justified in attacking her, although you acquired them
2 to attack some other nation.

3 MR. LOGAN: That is not my point at all,
4 your Honor. I have never made such a statement to
5 this Tribunal. I have said that the acts of the
6 Western Powers, enforcing embargoes and passing of
7 legislation where Japan was strangled economically,
8 is our defense, and that at the same time it became
9 the bold policy of the United States to send arms,
10 money and materials to China who was engaged in war
11 with Japan at that time; and that that strangulation
12 of Japan led to the war.

13 THE PRESIDENT: By a majority, the Court
14 upholds the objection and rejects the document.

15 MR. LOGAN: Defense document 401(36) is now
16 offered in evidence. This is an excerpt from Peace
17 and War and contains a resume of the address by the
18 President of the United States on "arsenal of democ-
19 racy."
20

21 THE PRESIDENT: Brigadier Quilliam.

22 BRIGADIER QUILLIAM: May it please the Tri-
23 bunal, it is submitted by the prosecution that the
24 contents of this document are irrelevant to the is-
25 sues in this case as were the documents which have
been rejected this afternoon relating to neutrality.

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1 That they are authoritative, genuine documents we can
2 not dispute. As I have already said, we cannot dis-
3 pute that an embargo was placed on exports and imports.
4 We suggest that the putting into evidence of these
5 documents containing the details of the goods affected
6 by the embargoes is a waste of time and effort. We
7 also suggest that if this is considered to be in any
8 way material or of assistance to the Tribunal, the
9 proper method would have been to have submitted an
10 admission or stipulation covering, in a few sentences,
11 the whole of these documents.

12 THE PRESIDENT: Well, this document is re-
13 stricted to war materials -- it is called "strategic
14 commodities" in some places -- and includes all or
15 practically all such materials. That is conceded,
16 I suppose, Brigadier, including steel and wool?

17 BRIGADIER QUILLIAM: I was going to ask per-
18 mission to add, if it please the Tribunal, that it is
19 shown at the commencement of this document the powers
20 exercised for the purposes of national defense.

21 THE PRESIDENT: Well, if you admit all that,
22 there is no need for this document, although we under-
23 stand you to be testing its relevancy.

24 BRIGADIER QUILLIAM: May it please the Tri-
25 bunal, in answer to your question, we certainly

1 MR. LOGAN: I therefore ask the Tribunal to
2 take judicial notice of the proclamation No. 2413,
3 signed by President Roosevelt on July 2, 1940, and
4 all the materials and products contained therein.

5 THE PRESIDENT: We have judicially noticed
6 all the proclamations imposing embargoes. You need
7 not refer to them again until in the course of your
8 summation.

9 MR. LOGAN: May we have the defense docu-
10 ment numbers and dates of each one of these pro-
11 clamations set forth -- a list of those prepared and
12 set forth in full in the transcript? We can read it
13 perhaps from the lectern tomorrow.

14 THE PRESIDENT: I do not think there will
15 be any objection if you can put them in some pendious
16 form. I do not think it is necessary to itemize
17 every figure.

18 MR. LOGAN: Well, we will prepare such a list,
19 your Honor.

20 If the Tribunal please, it might be better,
21 in a chronological order, to refer to each one of
22 these briefly, the defense document number and the
23 date of the proclamation, as we go along here.

24 THE PRESIDENT: Yes. You could hand in those
25 proclamations to the Judges. Some of them may want

THE PRESIDENT: Yes, Brigadier.

1 BRIGADIER QUILLIAM: May it please the
2 Tribunal, our object was to endeavor to save time
3 and labor. If my friend is going to read what
4 he is -- make statements such as he just made with
5 respect to every document, a great deal of time will be
6 wasted.
7

8 THE PRESIDENT: This is a military order,
9 but the Tribunal may consider taking judicial notice
10 of all orders and proclamations under the hand of
11 the President.

12 MR. LOGAN: Yes, I asked your Honor to
13 take judicial notice of that. I didn't intend to
14 read any part of it.

15 THE PRESIDENT: Well, Mr. Logan, you
16 understand that although we are prepared to
17 judicially notice the document it does not follow
18 that we will receive it in evidence. Under the
19 statutes in our own countries certain documents may
20 be judicially noticed, documents signed by a Prime
21 Minister or Minister among others. It does not follow
22 they are always in evidence. They are only in evidence
23 so far as the court decides they are relevant.
24

25 MR. LOGAN: Well, I don't want to make any

and it also --

1 THE PRESIDENT: It is admitted that you did
2 not accept these embargoes without protest. That
3 appears in the negotiations. There is ample evidence
4 of that. That is all you need. Even if relevant and
5 material, it is surplusage, it is cumulative.
6

7 MR. LOGAN: I don't recall any other evidence
8 in the case at the present time, your Honor, where it
9 was brought to the United States' attention of the
10 Japanese regarding the imposition of these embargoes
11 as an unfriendly action.

12 THE PRESIDENT: By a majority, the Court
13 upholds the objection and rejects the document.

14 MR. LOGAN: On October 8, 1940, the Japanese
15 Ambassador handed an undated note to the Secretary of
16 State wherein he pointed out that the regulation of
17 September 30, 1940, restricting the granting of
18 licenses for shipment of iron and steel scrap for
19 exportation to the Western Hemisphere and Great
20 Britain was causing a widespread depression in Japan,
21 that it was motivated by a desire to bring pressure
22 on Japan and expressing fear that it would be a fore-
23 runner to severance of economic relations between
24 Japan and the United States, and that future relations
25

MIZUNO

DIRECT

1 and tried to have the Tribunal draw an inference
2 that they were passed for the purpose of promoting
3 and waging an aggressive war.

4 THE PRESIDENT: We refused to take any of
5 Liebert's opinions. We cannot take any of this man's
6 opinions. His affidavit and annexures appear to be
7 full of opinions.

8 MR. LOGAN: I think there are observations
9 made by him as a result of the official positions
10 that he held, but I was glad to hear Mr. Carr say
11 that the judgments or opinions contained in this
12 affidavit are on issues the Tribunal does not have
13 to try and I think that is a proper interpretation
14 of the Tribunal's ruling. I thoroughly agree that no
15 witness should try to forswear any issue which the
16 Tribunal has to decide but opinions on matters within
17 the sphere of work done by this man which are reason-
18 able and necessary I think the Tribunal should accept.

19 THE PRESIDENT: After all, the only way to
20 meet Liebert's evidence is to contradict the facts
21 relied upon by him.
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2 that they were passed for the purpose of promoting
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6 opinions. His affidavit and annexures appear to be
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14 of the Tribunal's ruling. I thoroughly agree that no
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16 Tribunal has to decide but opinions on matters within
17 the sphere of work done by this man which are reason-
18 able and necessary I think the Tribunal should accept.

19 THE PRESIDENT: After all, the only way to
20 meet Liebert's evidence is to contradict the facts
21 relied upon by him.
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DIRECT

1 MR. LOGAN: I might also add, your Honor,
2 that we of the defense do not consider Liebert's
3 testimony as the touchstone by which the relevancy of
4 all evidence that we put in should be gauged.

5 THE PRESIDENT: All you have to do as the
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1 believe that anybody could have communicated this
2 report to the newspaper in good faith.

3 THE PRESIDENT: Well, the transcript shows
4 what you said, Mr. Carr.

5 Before me, on my arrival in court this
6 morning, was an offensive note addressed to me. How
7 those things can happen I don't know. I'll say no
8 more about it.

9 Mr. Logan.

10 MR. LOGAN: If your Honor please, we now
11 offer in evidence defense document 1400-H-3, being
12 a memorandum from Ambassador Grew dated November 10,
13 1941, reporting conversation he had with the Japanese
14 Minister.

15 THE PRESIDENT: Mr. Comyns Carr.

16 MR. COMYNS CARR: If it please the Tribunal,
17 the prosecution objects to this document as irrelevant.
18 It is merely Ambassador Grew's report of the opinion
19 communicated to him by an unknown minister on the
20 subject of the rapidly increasing Japanese popula-
21 tion.

22 MR. LOGAN: My friend picks up the most
23 minute portion of this document and calls it to your
24 Honor's attention. He knows we are not offering it
25 to show that the population of Japan was increasing.

NOTE:

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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2 THE MARSHAL: The International Military
3 Tribunal for the Far East is now resumed.

4 THE PRESIDENT: Mr. Logan.

5 MR. LOGAN: If your Honor please, I was
6 reading Exhibit 2844A, excerpts from testimony of
7 Admiral R. E. Ingersoll, February 12, 1946, before
8 the Joint Committee on the Investigation of the
9 Pearl Harbor Attack:
10

11 "Mr. GEARHART: When did that occur?

12 "Admiral INGERSOLL: Just to show again how
13 memory can trick a person, Admiral Richardson, I read
14 in the paper, had testified that I went to London in
15 1940 when I was Assistant Chief of Naval Operations
16 and when Admiral Stark was Chief of Naval Operations.
17 As a matter of fact, I went in December, very late
18 in December of 1937, when I was Director of the War
19 Plans Division and when Admiral Leahy was Chief of
20 Naval Operations. Admiral Richardson was perfectly
21 sincere in what he said.

22 " Mr. GEARHART: Well, that was pretty early,
23 before events began to develop.

24 "Admiral INGERSOLL: There were two purposes.
25 The primary purpose was to investigate and to talk
with the British Admiralty officials as to what we

1 could do if the United States and Japan were to find
2 themselves at war with Japan in the Pacific.

3 "Mr. RICHARDSON: United States and England.

4 "Admiral INGERSOLL: United States and
5 England would find themselves at war with Japan in
6 the Pacific, to explore all the means, what means
7 could be used, what arrangements it would be necess-
8 ary to make in regard to command relationships, in
9 regard to communicating with each other, of establish-
10 ing liaison officers and preparing certain codes and
11 ciphers, and so forth.

12 "Mr. GEARHART: Were the assumptions upon
13 which these conversations were based that the United
14 States and Britain would be in war together?

15 "Admiral INGERSOLL: The assumption was that
16 the United States and Great Britain might find them-
17 selves both at war with Japan in the Pacific.

18 "Mr. GEARHART: And your purpose in going
19 there was to work out a tentative plan as to how
20 each nation would cooperate with the other in the
21 event that should occur?

22 "Admiral INGERSOLL: That is right, to find
23 out what we could do, what forces we could expect.
24 The British had to be a little bit careful about it
25

1
2 because they did not know at that time whether they
3 were going to have, in a year or two, a European war
4 on their hands, and they could not state definitely
5 what forces they could allocate to the Pacific at
6 that time.

7 "Mr. GEARHART: Did you go there to discuss
8 Japan or Germany?

9 "Admiral INGERSOLL: Japan only.

10 "Admiral INGERSOLL: As I say, that record
11 of conversations became entirely obsolete when the
12 later agreements in ABC-1 were in effect in 1940 or
13 1941."

14 Defense document 401(23), an excerpt from
15 Peace and War, is offered to show that as early as
16 January, 1939 steps were being taken by the United
17 States to strengthen the defense of Alaska, Hawaii,
18 and the Panama Canal, and for the acquisition of
19 stock piles of certain critical military materials.

20 THE PRESIDENT: Admitted on the usual terms.

21 THE CLERK: Defense Document 401 (23) will
22 receive Exhibit Number 2845.

23 (Whereupon the document above referred to
24 was marked defense Exhibit No. 2845 and received in
25

1 counsel has stated that there are a number of
2 similar type documents.

3 THE PRESIDENT: We do not say that no
4 letters between these two admirals, whether private
5 or not, could ever be relevant and material, but
6 Mr. Logan seems to think they are covered by the
7 earlier decisions. If so, he should respect those
8 earlier decisions.

9 MR. TAVENNER: The prosecution objects to
10 the introduction of this document on the same
11 grounds as previously stated.

12 THE PRESIDENT: We said nothing this morn-
13 ing that would justify the tendering of this docu-
14 ment.

15 MR. LOGAN: I am trying to respect the
16 Tribunal's previous decision. That is what I said.
17 This morning we were advised that we could show
18 army and naval preparations on behalf of the United
19 States -- war plans.

20 THE PRESIDENT: Those documents showed
21 increases in the strength of the United States
22 forces. This is quite different. This document is
23 rejected.
24

25 MR. LOGAN: We offer in evidence defense
document 1500-I-1 which is the secret answer of the

1 THE PRESIDENT: By a majority the Court
2 sustains the objection and rejects the document.

3 MR. LOGAN: We offer in evidence defense
4 document 1900-A-1, an excerpt from the "Asahi Shimbun"
5 of November 9, 1940 reporting an agreement reached
6 among Britain, America and Australia for cooperation
7 in the Pacific.

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: If it please the Tribunal,
10 this is a typical newspaper publication which has been
11 repeatedly rejected.

12 THE PRESIDENT: We would understand your
13 argument more clearly if we had the papers before us.
14 We are not blaming you, Mr. Tavenner.

15 The speed is somewhat fast.

16 MR. TAVENNER: I beg your pardon, I thought
17 you called on me to respond.

18 If the Tribunal please, this is a type of
19 newspaper article which has been so repeatedly rejected
20 by the Tribunal--

21 THE PRESIDENT: Wholly based on an emergency--
22 a possible attack.

23 Mr. Logan.

24 MR. LOGAN: The prosecution has been objecting
25 to some of this evidence on the ground that the Japanese

1 us the information from the Japanese official
2 sources showing upon what these releases were based?

3 MR. LOGAN: Well, these reports come in
4 from various countries and they are published in the
5 newspaper here. It seems to me that the mere fact
6 that they appeared in the paper -- that is all I am
7 offering them for. I have tried to explain that when
8 I started to offer these papers, but I just wondered
9 whether or not the Court understood what I was trying
10 to do.

11 THE PRESIDENT: Here is a pointed observation:
12 You may be suggesting that a war is justified because
13 of reports in newspapers, whether true or false.

14 MR. LOGAN: I am not suggesting that. I am
15 suggesting this, if the Tribunal please, that actions
16 were taken of a military nature by other countries. In
17 the first place, prosecution think that everything the
18 other countries did was secret and was not known to
19 the people of Japan. This evidence contradicts that.
20 Secondly, we will show that the information contained
21 in these documents was, as a matter of fact, true. What
22 we are trying to do is to show through this particular
23 method that the actions which were taken by the other
24 countries was actually published in the Japanese
25 newspapers and they knew about it.

1940; rather it quotes from a letter.

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If the Tribunal please,
3 Ambassador Grew in this letter merely sets forth
4 certain possible questions that relate to matters of
5 opinion. There is no question of fact.

6 THE PRESIDENT: He puts three questions
7 and says he is not able to answer any of them, and
8 that is the whole letter. The objection is sustained
9 and the document rejected by a majority.

10 MR. LOGAN: We offer in evidence defense
11 document 1500-V-1. This is a secret letter from
12 Admiral Stark to Admiral Richardson dated December 17,
13 1940, in which the United States Chief of Naval
14 Operations reveals a new Navy Basic War Plan. I do
15 not intend to read this.

16 THE PRESIDENT: Mr. Tavenner.

17 MR. TAVENNER: Notwithstanding the fact
18 counsel does not propose to read it, objection is
19 nevertheless made to its introduction into evidence
20 on the same ground as made to the other documents in
21 the 1500 series.

22 THE PRESIDENT: Why do you tender it if
23 it is not worth reading Mr. Logan?

24 MR. LOGAN: I tender it to show further war

1 MR. LOGAN: Defense document 1500-M-4.
2 This is an excerpt from the recorded U. S. - British
3 Staff Conversations held in Washington from January
4 29, 1941 to March 27, 1941, at which time joint war
5 plans against Japan were discussed. This brief
6 secret excerpt from the Pearl Harbor Report is offered
7 only to establish that such military plannings were
8 in progress at this time and to disclose the extent
9 of the collaboration between the United States and
10 the United Kingdom.

11 THE PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: If the Tribunal please, this
13 is another of the 1500 series documents, which is
14 objected to on the grounds previously mentioned.

15 THE PRESIDENT: By a majority the objection
16 is sustained and the document rejected.
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NOTE:

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pages and should be substituted for the
corresponding pages in the record.

document 1500-Q-4 in evidence.

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If the Tribunal please, this
3 is another of the 1500 series which is on all fours
4 with document 1500-M-4 which was rejected a few
5 minutes ago.

6 THE PRESIDENT: How is it different from the
7 last one that was admitted? I am not able to draw
8 the line. I should be inclined to give them the bene-
9 fit of the doubt, Mr. Tavenner.

10 MR. TAVENNER: The prosecution views the
11 document as being totally irrelevant to any issue.
12 It is not harmful, but we do think it would be a
13 needless waste of time to continue to read documents
14 that are irrelevant.

15 THE PRESIDENT: The last document admitted
16 appears to me to have no value at all.

17 MR. TAVENNER: That is the reason we objected
18 to it. We cannot see that it aids or furthers the
19 issues in this case one iota.

20 THE PRESIDENT: By a majority the Court
21 upholds the objection and rejects the document.

22 MR. LOGAN: We offer in evidence defense
23 document 1500-N-5, being a telegram dated May 9,
24 1941, from Lauchlin Currie to the President of the
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THE PRESIDENT: Mr. Logan.

1 MR. LOGAN: This document is being submitted
2 at this time as being relevant to the question of the
3 information which the Japanese government had and on
4 which it acted. It is an official document of the
5 Japanese government, and admissible under Article
6 13c(1) of the Charter.

7 THE PRESIDENT: The course suggested by
8 Mr. Comyns Carr fully protects you, Mr. Logan.

9 MR. LOGAN: The Tribunal inquired -- yester-
10 day, I believe it was -- as to what information the
11 Japanese government had, on which they acted, as
12 to whether it was newspaper reports, etc. This is
13 one of those documents.

14 THE PRESIDENT: But the question is, when
15 to use this document. It should be admissible.

16 MR. LOGAN: Well, this is on the general
17 phase, and for this reason this type of evidence
18 should go in on the general phase.

19 THE PRESIDENT: It is only in the general
20 phases that you give the evidence that establishes the
21 facts in relation to all; in the individual phases
22 you give the facts which influenced the determina-
23 tion of the individual as well. And this document
24 would appear to fall in the latter class.
25

1 MR. LOGAN: Of course, I am willing to go
2 along with the Tribunal's position except that I
3 think that for the chronological order in which
4 this evidence is taken I think it right that it should
5 be read. However, if it is not read at this time,
6 we have had a full argument and I think it should
7 be accepted as an exhibit, so that we can refer to
8 it later on in individual cases.

9 THE PRESIDENT: Well, it needs to be tidied
10 up, in any event, Mr. Logan.

11 MR. LOGAN: Yes, there are a few pages
12 that need to be tidied up, but that can easily be
13 done.

14 THE PRESIDENT: It is rejected now, but
15 without prejudice to its admission later. If
16 tendered later on behalf of an individual accused
17 it will be accepted.

18 MR. LOGAN: We offer in evidence defense
19 document 1482, being a Top Secret Report issued by
20 the Foreign Office of the Japanese Government on the
21 Anglo-American policy of encirclement as against
22 Japan in the Southern Pacific Ocean, dated July 1941.

23 INTERPRETER: Mr. Logan, I don't think the
24 document which you read was in the order of proof.

25 We don't have the running commentary.

1 MR. LOGAN: This is one I withdrew from the
2 last section. Do you want me to read that over again?

3 INTERPRETER: Thank you, sir.

4 MR. LOGAN: It is also on this order of
5 proof.

6 INTERPRETER: Mr. Logan, will you please
7 read it over again?

8 MR. LOGAN: We offer in evidence defense
9 document 1482, being a Top Secret Report issued by
10 the Foreign Office of the Japanese Government on
11 the Anglo-American policy of encirclement against
12 Japan in the Southern Pacific Ocean, dated July 1941.

13 THE PRESIDENT: Mr. Comyns Carr.

14 MR. COMYNS CARR: May it please the Tribunal,
15 this is a document of exactly the same kind as the
16 last one, although free from the confusions in the
17 last document, and it is objected to for the same
18 reasons, and we ask that it be dealt with in the
19 same way.

20 MR. LOGAN: I believe that this should be
21 read now, your Honor. I think the Tribunal should
22 know this particular information at this particular
23 time. It would be very difficult for the Tribunal
24 to try and evaluate what happened after the date of
25 this document unless it knew what went on before,

1 and this is just a part of that picture. How did
2 the Japanese Government -- the officials in the Jap-
3 anese Government -- view these acts, and what reports
4 were made to them, and what did they do about it. It
5 is all in these reports.

6 THE PRESIDENT: We give the same decision
7 as on the last document; it is rejected for the time
8 being. That is a majority decision, and it is the
9 same as the decision on the last document.

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1 of the doubt. We will overrule the objection and admit
2 it on the usual terms.

3 CLERK OF THE COURT: Defense document 1500-H-3
4 will receive exhibit No. 2856.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 2856 and received in evidence.)
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1 MR. LOGAN: I shall read Exhibit No. 2857:

2 "Department dispatches apparently do not take
3 cognizance of the magnitude of Army troop movement
4 directed by War Department from San Francisco by
5 December 10 involving about 22 vessels including
6 largest liners. Aside from troop transportation
7 about 12 merchant on scheduled voyages ready to
8 sail trans-Pacific. Seven vessels already sailed.
9 Com 12 organizing 17 knot convoy to depart San
10 Francisco by December 8. Also planning 10 knot
11 convoy to assemble Honolulu by December 15 routings
12 prescribed eastward of Ellice Islands thence Torres
13 Straits. Watering necessary practically all vessels
14 especially troop transports. In view reports Japanese
15 patrolling this area believe it vulnerable. Subject
16 to further study believe routing south about Australia
17 impracticable. If troop movement must be made at
18 this time recommend great circle course to San Bernard-
19 ino Strait with adequate fleet protection."
20

21 We offer in evidence defense document 1500-
22 M-2. This is a sealed secret message from Chief of
23 Naval Operations to Commanders in the Pacific and
24 elsewhere dated 24 November 1941 and warning against a
25 surprise aggressive movement by Japan against the

1 United States.

2 THE PRESIDENT: Mr. Tavenner.

3 MR. TAVENNER: Same objection, for the same
4 reasons, is made to the introduction of this document.

5 THE PRESIDENT: These are only calculations
6 or warnings. By a majority, the objection is sus-
7 tained and the document rejected.

8 MR. LOGAN: We offer in evidence Defense
9 Document 1500-L-3. This is an excerpt from a Milit-
10 ary Intelligence Estimate prepared by G-2, War Depart-
11 ment, Washington, D.C., dated 26 November 1941, show-
12 ing the extent to which the military actions of Japan
13 were being scrutinized by the authorities in the
14 United States.

15 THE PRESIDENT: Mr. Tavenner.

16 MR. TAVENNER: Same objection, if the Tribun-
17 al please.

18 THE PRESIDENT: By a majority, the objection
19 is sustained and the document rejected.

20 MR. LOGAN: We offer in evidence defense
21 document 1500-N-2. This is an excerpt from a secret
22 message from the War Department to General Short in
23 Hawaii, dated November 26, 1941, wherein it is reveal-
24 ed that the United States was prepared to fly over
25 the Japanese Mandated Islands for the purpose of

1 instructions being sent to Ambassador NOMURA, in
2 another effort to remove misunderstanding. These
3 instructions, as contained in Foreign Relations, are
4 offered in evidence as defense document 1400-R-6.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document
7 1400-R-6 will receive exhibit No. 2899.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 2899 and received in evidence.)

11 MR. BLAKENEY: I read the document.

12 "Proposed Instructions to the Japanese
13 Ambassador (NOMURA), handed by the Japanese Minister
14 for Foreign Affairs (TOYODA) to the American Ambassador
15 in Japan (Grew) on September 13, 1941.

16 "I. (a) The proposed draft of an understand-
17 ing which has been constituting a basis for informal
18 negotiations between the Japanese and the United States
19 Governments will continue to be a basis for further
20 discussions.

21 "The points upon which we deem a tentative
22 agreement has already been reached during the informal
23 preliminary conversations in Washington comprise the
24 preamble to the proposed understanding, the concepts
25 of the United States and of Japan respecting

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1 doing it voluntarily and they should--

2 THE PRESIDENT: It is not a case of just
3 tendering the sweet and rejecting the bitter. You
4 did that in the prosecution. They are tendering the
5 sweet and the bitter, I take it, but they say the
6 bitter does not apply to the other accused.

7 MR. TAVENNER: That, we submit, is identically
8 the same thing as rejecting the bitter.

9 MR. BLAKENEY: I might suggest that the
10 question raised by Mr. Tavenner can in this instance
11 be disposed of on two much narrower grounds.

12 THE PRESIDENT: I should remind you we are
13 not bound by any technical rules of evidence but we
14 have applied them. We do not get away from them
15 without due consideration. The interests of justice
16 require us to adhere to them sometimes.

17 MR. BLAKENEY: One of the grounds which I
18 referred to might be characterized as a technical
19 rule of evidence; the other is one of those rules
20 heretofore acted upon by the Tribunal in substitution
21 for technical rules of evidence. To deal with the
22 latter point first, it is that the excerpts here being
23 tendered from the interrogation of General TOJO relate
24 to the same subject matter as that of excerpts here-
25 tofore tendered by the prosecution, and I refer to

1 doing it voluntarily and they should--

2 THE PRESIDENT: It is not a case of just
3 tendering the sweet and rejecting the bitter. You
4 did that in the prosecution. They are tendering the
5 sweet and the bitter, I take it, but they say the
6 bitter does not apply to the other accused.

7 MR. TAVENNER: That, we submit, is identically
8 the same thing as rejecting the bitter.

9 MR. BLAKENEY: I might suggest that the
10 question raised by Mr. Tavenner can in this instance
11 be disposed of on two much narrower grounds.

12 THE PRESIDENT: I should remind you we are
13 not bound by any technical rules of evidence but we
14 have applied them. We do not get away from them
15 without due consideration. The interests of justice
16 require us to adhere to them sometimes.

17 MR. BLAKENEY: One of the grounds which I
18 referred to might be characterized as a technical
19 rule of evidence; the other is one of those rules
20 heretofore acted upon by the Tribunal in substitution
21 for technical rules of evidence. To deal with the
22 latter point first, it is that the excerpts here being
23 tendered from the interrogation of General TOJO relate
24 to the same subject matter as that of excerpts here-
25 tofore tendered by the prosecution, and I refer to

1 prosecution be entitled to receive the benefit
2 of all inferences or any contradictory statements
3 that may be contained in it, with reference to the
4 subject matter presented.

5 THE PRESIDENT: That suggests to me that
6 the question is premature. The only question now
7 is what evidence is admissible and what is not.
8 The extent to which it can be used is a matter to
9 be dealt with in summation. Individual defense
10 counsel may rise, of course, and say "That is
11 not evidence against my client." We will have to
12 hear him.

13 I say the point is prematurely raised by
14 the prosecution, but I do concede that individual
15 defense counsel can arise in his place and claim
16 that the evidence is not admissible against his
17 client, but I recollect that Major Blakeney is
18 claiming to put this on behalf of all the accused.

19 MR. TAVENNER: If it please the Tribunal,
20 I have not objected to the introduction of the docu-
21 ment. I only considered it to be a fair matter to
22 all concerned that we make known now what our con-
23 tention would be with regard to this evidence. If
24 it is considered premature, I will have nothing more
25 to say about it.

1 and I must point out to the Tribunal that I have
2 failed to comply wholly with the rule for service of
3 affidavits. However, I am advised by the prosecution
4 that they will have no objection to waiving the rule
5 to the extent of permitting me to put the witness on
6 the stand, they to reserve their objections both to
7 the affidavit and to the documents until the 24-hour
8 period to which they are entitled has elapsed.

9 Mr. Tavenner tells me he is mistaken. He
10 doesn't wish to make any reservation; he is prepared
11 to go ahead.

12 Of course the Tribunal also has not had the
13 document for the required period of three days, but
14 I believe in the circumstances it will find no diffi-
15 culty in permitting me to go ahead.

16 THE PRESIDENT: There is no desire on the
17 part of the Tribunal to prevent you from proceeding.

18 MR. BLAKENEY: I therefore call as a witness
19 YAMAMOTO Kumaichi, whose testimony is embodied in his
20 affidavit, defense document 2014.
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22
23
24
25

Y A M A M O T O K U M A I C H I, recalled as a witness on behalf of the defense, having been previously sworn, testified through Japanese interpreters as follows:

THE PRESIDENT: You are still on your former oath, Witness.

Mr. Brannon.

MR. BRANNON: If the Tribunal please, I have been instructed by the accused former Admiral SHIMADA and OKA to inform the Tribunal that they strongly

Y A M A M O T O K U M A I C H I, recalled as a witness on behalf of the defense, having been previously sworn, testified through Japanese interpreters as follows:

THE PRESIDENT: You are still on your former oath, Witness.

Mr. Brannon.

MR. BRANNON: If the Tribunal please, I have been instructed by the accused former Admiral SHIMADA and OKA to inform the Tribunal that they strongly

1 differ with certain statements contained in defense
2 document 2014, the affidavit of YAMOMOTO Kumaichi,
3 about to be read. Therefore, they do not wish the
4 Tribunal to consider this testimony as offered in their
5 behalf, even though it appears in a general phase.

6 THE PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: If the Tribunal please, when
8 an affidavit is produced and entered in evidence in a
9 general phase, I would take it that it would be evi-
10 dence for all of them unless counsel for a particular
11 accused points out by cross-examination wherein he
12 differs with the assertions of the witness. If that
13 isn't done, then I think the evidence should be reser-
14 ved until the individual phase of the case is reached.

15 THE PRESIDENT: We understand that the evidence
16 given in the general phase is the evidence for all the
17 accused.

18 MR. BRANNON: If the Tribunal please, we do
19 not wish to be placed in the position of having to
20 accept the testimony of any one witness as our evi-
21 dence.

22 THE PRESIDENT: We must reconsider how far
23 we are going allow this evidence on behalf of some
24 to be tendered in the general phase.

25 MR. BRANNON: We simply don't want to be in
the position of impeaching our own evidence later on

1 in the individual phase. Therefore we inform the
2 Tribunal now that we do not adhere to this evidence.

3 THE PRESIDENT: Major Blakeney, if you per-
4 sist in offering this evidence in the general phase,
5 we would like to hear you shortly on the reason why it
6 should be accepted at this stage.

7 MR. BLAKENEY: Mr. Brooks would like to say
8 a word first, if agreeable.

9 MR. BROOKS: It has been my understanding,
10 and I believe the understanding of most of the defense
11 attorneys, that the evidence put in in the general
12 phase was general evidence affecting most of the accused
13 not all of them, because there have been no instances
14 that I recall where the majority of the evidence has
15 affected every accused. Some of them were not even --
16

17 THE PRESIDENT: I have stated the contrary
18 at least twice without hearing any dissent that I re-
19 collect.

20 MR. BROOKS: On particular pieces of evidence
21 when your Honor has spoken that has been true; but
22 there have been times when the accused in many instances
23 were retired from military and political life when
24 other bits of evidence went in that did not affect
25 them, either for or against.

THE PRESIDENT: The question could not arise

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as regards accused of that kind.

MR. BROOKS: Well, I have in mind one of my
accused in particular who was Governor General in
Korea at the time. He wasn't even in Japan at the
time, certainly not in any of these consultations.

THE PRESIDENT: If the evidence is neither
for him nor against him, I cannot see how any ques-
tion can arise.

MR. BROOKS: I was just meeting the proposi-
tion of the Court that this evidence was being put in
in his behalf, that it was to be used against him.
I haven't said anything because it doesn't affect him
one way or the other, and I thought the Court was con-
sidering that.

THE PRESIDENT: We are concerned with the
practical question, not the academic one.

We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was
taken until 1505, after which the proceedings we
resumed as follows.)

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) u d a & 3 p r a t t

1 MR. BLAKENEY: The President then called for
2 a list of the names of those dissenting and was given
3 it.

4 On page 17,010:

5 "THE PRESIDENT: Proceed to read the opening,
6 Doctor KIYOSE, but be careful to omit any arguments
7 already put to the Tribunal.

8 "MR. TAVENNER: The prosecution desires to
9 reserve the right to object to any phases of the open-
10 ing statement at the conclusion thereof should they be
11 advised it is proper to do so."

12 THE PRESIDENT: Of course, if you call a
13 witness in a general phase and he happens to say some-
14 thing prejudicial to one of the accused, to say it un-
15 expectedly, you must have a right to cross-examine him
16 under the circumstances, and the rules give it to you.

17 MR. BLAKENEY: Yes, I was coming to the rules
18 in a moment's time. I might say now that the Charter,
19 in Article 9(d), gives the unrestricted right to the
20 defendants to cross-examine all witnesses not only if
21 they unexpectedly say something against the interest of
22 the defendants, and I was--

23 THE PRESIDENT: But it is put very pointedly
24 to me that if you are right you could call in the
25 general phase a witness with whom twenty-four out of

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twenty-five disagree.

1 MR. BLAKENEY: In considering this very
2 perplexing problem among ourselves, we have tried
3 to adopt a rule or practice of putting in evidence
4 only in cases when, let's say, all the defendants
5 agreed with as much as ninety-five per cent of the
6 evidence. We thought that was about the practical
7 limit. We had to recognize that these defendants,
8 many of whom have fought each other officially and
9 personally, would come to the point of differing
10 about the evidence to be adduced. In the present
11 case, for example, I think I am quite correct in
12 saying that the two defendants for whom Mr. Brannon
13 noted his reservation would agree to fully ninety or
14 ninety-five per cent of the content of this affidavit;
15 but the remaining five per cent thereof, to which all
16 other defendants so far as I know subscribe, represents
17 one of those fields of conflict of interests between
18 these two defendants and other defendants, and I want
19 the Tribunal to know that we have seen this problem,
20 we have considered it, and we have thought that in
21 the interests of efficiency and expedition it was far
22 better to present it in this way with the reservation
23 than to give the Tribunal an incomplete picture now
24 and require, perhaps, many defendants to adduce
25

1 similar evidence later. That was our intention. And
2 if I may say just another word. We went on the assump-
3 tion that the Tribunal, appreciating our difficulty in
4 this respect, had taken our view of the matter because
5 this has been presented, I think, as a reservation in
6 the opening statement of each phase prior to this one,
7 and I, personally, should have thought that the
8 supplementary rules concerning cross-examination
9 lately adopted by the Tribunal were designed to solve
10 or to get us out of this sort of dilemma.

11 THE PRESIDENT: When I explain the need for
12 such a rule you may show that it is wider than I
13 suggest.

14 MR. BLAKENEY: In view of the rather con-
15 siderable importance of this question, and since I
16 had only ten minutes to look it up, I wonder if the
17 Tribunal would hear another counsel who has indicated
18 that he would like to say a word on the subject. That
19 is all I have to say.
20

21 THE PRESIDENT: Perhaps that is all that can
22 be said. Has anybody else gone right through the
23 record and found something that you haven't told us,
24 Major Blakeney?

25 MR. BLAKENEY: I don't know. I went through
as much of the record as I could between a quarter of

1 three and three o'clock. That is all I know on
2 that subject.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If the Tribunal please, in
5 regard to the incident mentioned by counsel where
6 the witness TANAKA was produced by the defense, the
7 question there raised by Mr. Freeman was not directed
8 at the possibility of impeaching the testimony in the
9 affidavit of the witness then being presented; so
10 that this did not arise on that occasion.

11 THE PRESIDENT: That is the only occasion.

12 MR. TAVVENER: What counsel did state on
13 that occasion was that he did not desire to be bound
14 by the testimony of this witness because he expected
15 to attack the credibility of the witness at a later
16 date, the witness having previously testified at
17 length in behalf of the prosecution. Counsel merely
18 did not join in calling that witness. That was the
19 only question involved there.

20
21 THE PRESIDENT: Nor did he cross-examine
22 or claim to do so, if I recollect rightly.
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1 three and three o'clock. That is all I know on
2 that subject.

3 THE PRESIDENT: Mr. Tavenner.

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5 regard to the incident mentioned by counsel where
6 the witness TANAKA was produced by the defense, the
7 question there raised by Mr. Freeman was not directed
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13 that occasion was that he did not desire to be bound
14 by the testimony of this witness because he expected
15 to attack the credibility of the witness at a later
16 date, the witness having previously testified at
17 length in behalf of the prosecution. Counsel merely
18 did not join in calling that witness. That was the
19 only question involved there.

20 THE PRESIDENT: Nor did he cross-examine
21 or claim to do so, if I recollect rightly.
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1 MR. TAVENNER: There was nothing in that
2 witness' testimony as then being offered that he was
3 attempting to attack. The question now being pre-
4 sented was not involved at all in the inquiry made
5 with regard to the general opening statement by the
6 defense. Neither I nor my associates can recall any
7 instance in which the question has arisen.

8 The rules which were adopted by the Tribunal
9 were adopted pursuant to agreement between the defense
10 and the prosecution, and your Honor made it perfectly
11 clear that they were rules pursuant to agreement
12 between counsel and that the Tribunal would try them
13 out and if necessary change them. So in no sense, we
14 contend, is the Tribunal bound in any way by either
15 rules or previous decision, as far as we know, on this
16 question.

17 Now, there will be nothing saved in time by
18 the defense postponing testimony of this type to the
19 individual phase -- I mean, of course, to state that
20 there will be nothing lost in time. It is a spurious
21 argument to contend that each of the accused would have
22 to call the same witness and prove the same thing. If
23 the testimony is offered once, it can either be
24 adopted by an accused or rejected when he takes the
25 stand in a very simple manner. If the Tribunal is to

1 begin to hear evidence upon which there is a sharp
2 conflict between the accused, the general phases will
3 never end. I think for the prosecution's objection
4 to be sustained would shorten the general phase of
5 the case.

6 MR. BLAKENEY: May I say a word in reply,
7 your Honor?

8 THE PRESIDENT: Yes, Major Blakeney.

9 MR. BLAKENEY: Mr. Tavenner's argument about
10 lengthening the general phases indefinitely is, of
11 course, wholly specious. We are almost at the end
12 of the general phases and this is, according to him,
13 the second time that the matter has ever come up;
14 and so far as concerns any evidence that I am familiar
15 with it is the last time that it will come up, although
16 that is not a promise on my part.

17 Now, if it is the simple matter that
18 Mr. Tavenner says for evidence introduced in the defense
19 of an individual to be adopted or dissented from by
20 other individuals, it is equally simple now, and the
21 record will be utterly and unequivocally clear as to
22 who is and who is not disassociating himself from that
23 evidence.
24

25 In connection with Mr. Tavenner's statement of
what point was involved in the case of the witness

1 TANAKA, I merely say again without reading it again
2 that the record, on page 22,713, shows precisely the
3 case of reservation which we have here.

4 I understand that Mr. Levin would like to
5 say something concerning his clients' position in
6 relation to this witness.

7 THE PRESIDENT: Mr. Levin.

8 MR. LEVIN: Mr. President: I did not join
9 Mr. Brannon in his statement on behalf of my clients
10 SUZUKI and KAYA, although our position is the same
11 with reference to a portion of this affidavit as his
12 position, or, rather, the position of those whom he
13 represents. And while I am in thorough agreement
14 with everything that Mr. Blakeney stated, I want to
15 add further that the reason I did not make any state-
16 ment was because, under the rules, each defense counsel
17 had a right to examine directly or to cross-examine;
18 and having the right to cross-examine indicated, at
19 least by implication, that there was a disagreement
20 with either the testimony given by affidavit or given
21 orally by the witness. So it was our position that by
22 stating the dissent, either before the affidavit was
23 read and preserving the right to contradict the affi-
24 davit subsequently by oral testimony, or by cross-
25 examining the witness, there was a sufficient indication

1 of a disagreement with the statement or evidence given
2 by the witness; and I joined in those views.

3 THE PRESIDENT: The majority of the Tribunal
4 think that as this affidavit is contested by some of
5 the accused, it should not be read in the general
6 phase. Therefore, the objection is sustained. It
7 may be read on behalf of those individuals who support
8 it, subject, of course, to other objections that are
9 open.

10 Captain Brooks.

11 MR. BROOKS: In view of the Court's decision
12 just announced, I would like to ask permission to put
13 myself clear on the record that I did not think that
14 was the understanding we had had when these rules were
15 drafted and from the previous rulings when this point
16 had been brought up on the opening statements, and
17 there are certain affidavits and pieces of evidence
18 on the record which I do not agree are binding upon
19 my defendants and I want to go back and point those
20 out to the Court at a later time. There has been a
21 small percentage of evidence that has been inconsistent.
22 Sometimes it has been, as I have assumed, from the
23 period of time that has elapsed, making the witness'
24 memory fail him on certain points, but I thought it
25 would be cleared up later.

1 THE PRESIDENT: You must stand or fall with
2 the transcript, Mr. Brooks. There is no reason for
3 you to point out your position.

4 MR. BROOKS: Except that we were practically
5 at the end of the case and when a rule is coming into
6 effect which I have not understood and which, in
7 justice, if it had been announced at the early part
8 of this case, I would have made a lot of statements
9 and objections that would have taken a lot of time
10 in this court--

11 THE PRESIDENT: Just consider this, Captain
12 Brooks: You heard every word that was said in this
13 court affecting your client. If anything was said
14 prejudicial to your client or clients, did you cross-
15 examine?

16 MR. BROOKS: On occasion I have found the
17 witness -- I have talked with him before he was put
18 on the stand and found he would not change his state-
19 ment on that point, and there was no necessity of
20 cross-examining. I do not know whether I cross-
21 examined or not.

22 THE PRESIDENT: But on your own statement
23 you have not been prejudiced; you have no grievance.
24 You are making a formal, unnecessary protest and
25 wasting out time. The debate is closed.

1 MR. BROOKS: May I be heard in chambers on
2 this?

3 THE PRESIDENT: We will adjourn until half-
4 past nine tomorrow morning.

5 (Whereupon, at 1600, an adjournment
6 was taken until Friday, 15 August 1947, at
7 0930.)

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1 deliver it, was in the hands of the War Department a
2 full four hours before the time set for delivery.
3 Clearly in these circumstances the United States had
4 far more notice than if the notification had been
5 delivered to it, as scheduled, at 1 P.M. and it had
6 then first hand knowledge of it; not to speak of the
7 case if, as is universally recognized to be per-
8 missible under the Hague Convention, Japan had
9 elected to and had successfully served the final
10 notification one or two minutes prior to the com-
11 mencement of hostilities.

12 Last, and in my judgement a decisive ground
13 on which this evidence is relevant is one which by
14 chance arose from a question put to a witness yester-
15 day by the President of the Tribunal-- the question
16 of interpretation of the final Japanese memorandum.
17 Since the Tribunal itself raised the point, a simple
18 statement without elaborate argument should suffice
19 to it. It will, of course, be an issue whether that
20 final memorandum as drafted and delivered (though
21 late) does constitute a declaration of war. The
22 Tribunal has heard testimony that the members of the
23 Liaison Conference who passed on it considered it
24 clearly to amount, in the circumstances then pre-
25 vailing, to a declaration of war.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If it please the Tribunal,
3 objection is made to the introduction of this docu-
4 ment on the same grounds as asserted for the rejec-
5 tion of the former document.

6 THE PRESIDENT: Was this rejected previously?

7 MR. BLAKENEY: If the Tribunal please, ad-
8 mission of the document is pressed on the same grounds
9 as were argued and accepted by the Tribunal in connec-
10 tion with the tenders of documents which are now
11 exhibits 2860 and 2861 -- I am sorry; I have the wrong
12 numbers. 2970 to 2974 I should have said.

13 THE PRESIDENT: This is repetitive in any
14 event. We have had all this before from others in a
15 higher station.

16 MR. BLAKENEY: It is true that we have had
17 from others, but I had thought that the knowledge of
18 Secretary Hull, for example, was very significant.

19 THE PRESIDENT: We have knowledge imputed to
20 the President himself and the Chief of Staff. What
21 more do you want?

22 MR. BLAKENEY: All I want, sir, is for the
23 Tribunal to find that the United States Government had
24 notice, and if that is an indication that this is
25 cumulative, I will be glad to withdraw it.

1 MR. BLAKENEY: No, I did not ask that; I
2 asked him whether he had discussed the matter. It is
3 strictly factual.

4 MR. COMYNS CARR: That is open to the further
5 objection that conspiracy may exist without any dis-
6 cussion.

7 MR. BLAKENEY: I will come to that.

8 THE PRESIDENT: Co-conspirators may never see
9 one another, may never know of the existence of one
10 another, may never exchange a word, directly or in-
11 directly.

12 If it was alleged by the prosecution that a
13 certain conversation took place between the accused,
14 ARAKI, and the accused, TOGO, you would be able to
15 deny that.

16 MR. BLAKENEY: Apparently the prosecution's
17 suggestion is that if two men work toward the same
18 end or take steps which in result lead to the same
19 end, they are conspirators without more, but if I
20 understand correctly, the essence of conspiracy is
21 the plotting or the conspiring, the breathing to-
22 gether to achieve an unlawful end.

23 THE PRESIDENT: Unless the prosecution have
24 given evidence that these two did have a discussion,
25 we cannot find that they did have one, and you are

Dr. KANZAKI, Masayoshi, one of the counsel for HATA.

1 By agreement with Mr. Sutton, in the second
2 line the three words following the word "letter" will
3 be omitted from the reading, sir.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Defense document 2614
6 will receive exhibit No. 3205-B.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 3205-B and received in evidence.)

10 MR. LAZARUS (Reading):

11 "Ever since HATA, Shunroku was arraigned,
12 I have been his Chief Counsel.

13 "In order to obtain the letter which was sent
14 from the Chief of General Staff, Prince KANIN, to War
15 Minister HATA, Shunroku in July 1940, I, since
16 spring 1946, have requested the First Demobilization
17 Bureau to take all measures possible to search
18 for the letter but it could not be discovered.
19 Further, with the assistance of Mrs. HATA and her
20 son Shunpachi, I have searched HATA, Shunroku's house
21 with the utmost of my power several times, but
22 I could not discover it."

23 Signed, "KANZAKI, Masayoshi."
24
25

1 MR. YAMAOKA: If your Honor please, I re-
2 spectfully submit that, once they have closed their
3 case and if they are permitted to present their evi-
4 dence in this manner why the defense has no way to
5 meet it, and particularly when many of the accused
6 have already testified or their cases have already
7 closed. I respectfully submit --

8 THE PRESIDENT: At least four of my colleagues
9 tell me that they fully concur in what I have said to
10 you. If you like I will tell you what they have said.
11 And I have no dissent. I think the whole Tribunal is
12 against you, Mr. Yamaoka. I have no dissent; if I had
13 I would let you know.

14 MR. YAMAOKA: With great respect and deference,
15 if your Honor please --

16 THE PRESIDENT: It is useless to argue. It
17 is only a waste of time, and I am very much concerned
18 about the time that is being wasted.

19 MR. COMYNS CARR: I will read the document,
20 your Honor.

21 "OUTLINE OF MEASURES FOR THE CHINA INCIDENT
22 "DECISION OF THE CABINET COUNCIL on December
23 24, 1937.

24 "Outline of Measures for the Incident (A).

25 "Since the outbreak of the incident, the

1 If the Tribunal please, I understand there
2 will be further examination by some defense counsel.

3 THE PRESIDENT: For the accused WATSUI, is
4 that so?

5 MR. ITO: Yes, sir. I wish to examine.

6 DIRECT EXAMINATION (Continued)

7 BY MR. ITO.

8 Q. Mr. Witness, in your affidavit you mention
9 that immediately after the fall of Nanking you re-
10 ceived a telegram from the Acting Consul-General in
11 Nanking concerning the atrocities committed by the
12 Japanese Army. Now, this telegram --I take it that
13 it was in Japanese, was it not?

14 A Yes, it was written in Japanese.

15 Q How was the term "atrocities" rendered in
16 Japanese?

17 A At that time there was no general term or
18 special term used for the acts that had been committed.

19 Q I wish to ask, what was referred to by the
20 term "atrocities"?

21 A The acts of the Army after they entered the
22 walls of Nanking consisted of rape, incendiarism and
23 looting.

24 Q At the conference of the secretaries of the
25 ministries of Foreign Office, War and Navy were the

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1 FUNAZU will be kept in absolute secrecy."

2 There is a certificate which I shall not
3 read.

4 At this point also I shall read exhibit 3276.

5 THE PRESIDENT: This is a rather lengthy
6 affidavit, so we will now adjourn until half-past nine
7 tomorrow morning.

8 (Whereupon, at 1600, an adjourn-
9 ment was taken until Friday, 3 October,
10 1947, at 0930.)
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